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U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

OCT 31 1986

MEMORANDUM

Re: Proposed Proclamation entitled "Placing into Full Force and Effect the Covenant with the Northern Mariana Islands, and the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands."

The attached proposed Proclamation was prepared by the Department of Justice. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review as to form and legality.

The proposed proclamation, as indicated by its title, will implement the Covenant with the Northern Mariana Islands and the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands. The recitals of the proposed Proclamation establish compliance with the legal requirements contained in Section 411 of the Compacts for their coming into effect.

According to section 1003(c) of the Covenant, several sections will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth. These provisions include section 101, pursuant to which the Northern Mariana Islands will become a Commonwealth in political union and under the sovereignty of the United States; and section 301, which confers United States citizenship on certain persons domiciled in the Northern Mariana Islands. Section 1002 of the Covenant provides that the President will issue a Proclamation announcing the termination of the Trusteeship Agreement. The Department of State has objected to the use of the word "termination" in this Proclamation, because that would adversely affect delicate negotiations conducted in the United Nations. At the suggestion of the National Security Council the proposed Proclamation uses instead the synonym "no longer effective." We believe that this phrase is legally sufficient, especially in view of the statement in the proposed Proclamation equating that clause with the statutory provision.



The Presidential determination that the Trusteeship Agreement is no longer effective as to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Commonwealth of the Northern Mariana Islands is based on the conclusion that the Trusteeship does not survive an agreement between the Administering Authority (United States) and the inhabitants of the Trust Territory, which confers on the Trust Territory, or a part thereof, the status of self-government or independence, and which has been ratified by the inhabitants in a referendum, a sovereign act of self-determination. We believe that this conclusion is legally sound.

The proposed Proclamation is acceptable as to form and legality.

Charles J. Cooper
Assistant Attorney General

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WHITE HOUSE STAFFING MEMORANDUM 44009155 ST051

DATE: 10/31/86 ACTION/CONCURRENCE/COMMENT DUE BY: 10:00 a.m. 11/2/86

SUBJECT: PROCLAMATION -- NORTHERN MARIANA ISLAND, MICRONESIA, & MARSHALL ISL

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BALL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your recommendation/comments by 10:00 a.m. Monday, November 3rd. Thank you.

RESPONSE:

NSC concurs except as noted on page one of the OMB memo to the President and pages three and four of the Proclamation.

Rodney B. McDaniel
Rodney B. McDaniel
Executive Secretary
1 NOV 1986

David L. Chew
Staff Secretary
Ext. 2702