

THE WHITE HOUSE

WASHINGTON

November 3, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: C. DEAN MCGRATH, JR. *WJ*

SUBJECT: Proposed Presidential Proclamation Entitled:
"Placing into Full Force and Effect the Covenant
with the Commonwealth of the Northern Mariana
Islands, and the Compacts of Free Association
with the Federated States of Micronesia and the
Republic of the Marshall Islands"

The above-referenced proposed Presidential proclamation would render "no longer effective" (*i.e.* terminate) the United Nations Trust Territory of the Pacific Islands with respect to the Northern Mariana Islands, the Federated States of Micronesia and the Republic of the Marshall Islands. The proclamation would not, however, terminate the Trusteeship with respect to Palau. The proposed proclamation would also implement the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (Covenant) and the Compacts of Free Association establishing relationships of Free Association between the governments of the United States and the Federated States of Micronesia and the Republic of the Marshall Islands (Compacts). The Covenant and Compacts have been approved by the Congress and the peoples of the Northern Mariana Islands, Micronesia and Marshall Islands.

The Office of Legal Counsel, Department of Justice, has opined that the United States, as the Administering Authority of the Pacific Trust Territory, and the inhabitants of the Trust Territory can agree to the termination of the Trusteeship without the approval of the United Nations, specifically the Security Council. The Office of Management and Budget in its memorandum to the President has indicated that the Department of State, the Office of Micronesian Status Negotiations and the National Security Council staff do not object to this position.

While I do not believe the Justice position -- that the Trusteeship can be terminated without the approval of the United Nations -- is free from doubt, I believe the OLC interpretation can be legally justified. Basically, OLC's position is that the language of the United Nations charter does not specifically require the approval of the termination by the United Nations General Assembly or the Security Council and that the Administering Authority (United States) can terminate the Trusteeship if the inhabitants of the Trust Territory have freely chosen self government or independence. The alternative



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would be perpetual Trusteeship for the peoples of the Pacific Trust Territory because it is almost certain that the Soviet Union would veto the proposed termination if it were submitted to the United Nations Security Council.

Based on the above analysis, I recommend that we approve the proposed Presidential proclamation. I have prepared the attached memorandum from you to David L. Chew to reflect this conclusion and to highlight possible Soviet reaction.

Attachment