

Department of the Interior

Departmental Manual

Effective Date: 4/27/89

Series: Territorial and International Affairs

Part 575: General Criteria

Chapter 1: Introduction and History

Originating Office: Office of Insular Affairs

This chapter has been given a new release number.* No text changes were made.

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1.1 Introduction. The territorial governments, under the jurisdiction of the Secretary of the Interior, are not agencies or instrumentalities of the Executive branch of the Federal Government, although Congress has placed in the executive branch certain authorities and responsibilities toward these territorial governments. These authorities and responsibilities, which are different for individual governments, are vested in the Secretary of the Interior. An explanation of the several territories and the relationships of their governments to the Secretary of the Interior is given in subsequent chapters. In viewing these relationships, it must be kept in mind that the territorial governments are not organizational entities of the Department of the Interior.

1.2 Territorial Histories.

A. Guam.

(1) The United States Government acquired Guam in the Treaty of Paris of 1898. It was administered by the Secretary of the Navy (Executive Order 108-A of December 23, 1898).

(2) Executive Order 10077, dated September 7, 1949, transferred the administration of the Island of Guam from the Secretary of the Navy to the Secretary of the Interior. This Order was amended by Executive Order 10137, dated June 30, 1950, establishing the date of transfer as of August 1, 1950.

(3) Congress approved the Guam Organic Act on August 1, 1950, and declared Guam to be an unincorporated territory of the United States (48 U.S.C., 1421 *et. seq.*, 64 Stat. 384). The Organic Act provided that Guam's relations with the Federal Government shall be under the general administrative supervision of the Secretary of the Interior in all matters not the program responsibility of another Federal department or agency.

B. American Samoa.

(1) The United States Government acquired commerce and commercial rights in American Samoa by the Convention of 1899, a tripartite agreement between Great Britain, Germany, and the United States (December 2, 1899). Deeds of Cession of the islands of Tutuila and Aunu'u in April 17, 1900, and the islands of the Manu'a group in July 16, 1904, followed the agreement. On February 19, 1900, the islands were placed under the administration of the Secretary of the Navy by Executive Order 125-A.

(2) By act of Congress on March 4, 1925, U.S. sovereignty was extended over Swains Island to make it part of American Samoa (48 U.S.C., 1662, Chapter 563, 43 Stat. 1357).

(3) On February 20, 1929, Congress formally accepted the 1900 and 1904 instruments of cession and stated that it shall provide all civil, judicial, and military powers for the government of the islands of American Samoa. The exercise of power shall be vested in such person or persons as the President of the United States shall direct (48 U.S.C., Sec. 1661, 45 Stat. 1253). Later the President vested these civil and judicial powers in the Secretary of the Interior by Executive Order 10264, dated June 29, 1951.

(4) Secretary's Order 2657, of August 29, 1951, and Secretary's Order 3009, as amended, dated November 3, 1977, set forth the extent and nature of the authority of the Government of American Samoa and the manner in which the authority is to be exercised.

C. Virgin Islands.

(1) The United States purchased the Virgin Islands from Denmark on August 4, 1916. The transfer became effective on January 25, 1917 (48 U.S.C. 1541 (a), 39 Stat. 1706). The Islands were placed under the jurisdiction of the U.S. Department of Navy on March 31, 1917.

(2) The Government of the Virgin Islands was placed under the supervision of the Secretary of the Interior pursuant to Executive Order 5566, dated February 27, 1931, effective March 18, 1931. Congress provided the relationship between the Government of the Virgin Islands and the Federal Government in all matters, not the program responsibility of another Federal department or agency, shall be under the general administrative supervision of the Secretary of the Interior (48 U.S.C. 1541(c), 68 Stat. 497).

D. Trust Territory of the Pacific Islands.

(1) The United Nations Security Council approved a Trusteeship Agreement on April 2, 1947. The Agreement placed the Northern Mariana Islands, the Marshall Islands, Palau, and the Federated States of Micronesia within the Trust Territory of the Pacific Islands. On July 18, 1947, the U.S. Congress authorized the President to approve the Trusteeship Agreement and on that date the United States became the Administering Authority of the Trust Territory (Joint Resolution of Congress, 61 Stat. 397).

(2) In the act of June 30, 1954 (48 U.S.C., 1681, 68 Stat. 330), Congress stated that until it provided for the government of the Trust Territory, all executive, legislative, and judicial authority necessary for the administration of the Trust Territory is vested in the President. Through a series of Executive Orders culminating in Executive Order 11021, dated May 8, 1962, the President vested the responsibility for the administration of the Trust Territory in the Secretary of the Interior. Secretary's Order 2918, dated December 27, 1968, as amended on March 24, 1976, set forth the authority of the Government of the Trust Territory.

(3) As of November 3, 1986, by Presidential Proclamation No. 5564, the President determined the United States had fulfilled its obligations under the Trusteeship Agreement with respect to the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, and the Federated States of Micronesia. (See the following sections to explain the termination of the Trust Territory as to specific areas).

(4) Secretary's Order 3119, dated July 10, 1987, provided the continuation of the United States' responsibility to Palau as Administering Authority under the Trusteeship Agreement.

E. Republic of Palau.

(1) Palau remains the only area within the Trust Territory of the Pacific Islands. Palau is governed under the Department of the Interior Secretarial Order No. 3119, dated July 10, 1987, and the Constitution of Palau.

(2) The governments of Palau and the United States signed a Compact of Free Association on January 10, 1986. The Compact was approved by the United States Congress (Public Law 99-658) on October 16, 1986. In the Republic of Palau, Compact approval has failed to pass a 75%-majority plebiscite vote as required by the Palau Constitution.

(3) Until the future political status of Palau is resolved, the United States will continue to discharge its responsibilities in Palau as Administering Authority under the Trusteeship Agreement (Presidential Proclamation No. 5564, dated November 3, 1986).

F. Federated States of Micronesia.

(1) The United States recognized the Constitution of the Federated States of Micronesia in 1979. On October 1, 1982, the Government of the United States and the Government of the Federated States of Micronesia (FSM) concluded a Compact of Free Association between the two governments.

(2) The FSM Government approved the Compact in a United Nations-observed plebiscite on June 21, 1983. In the United States, the Compact was approved by Public Law 99-239 on January 14, 1986 (48 U.S.C. 1681(n), 99 Stat. 1770), made effective on November 3, 1986, by Presidential Proclamation No. 5564.

(3) As of November 3, 1986, the Trusteeship Agreement for the Pacific Islands

was no longer in effect in the FSM. Pursuant to Sections 111 and 121 of the Compact, the FSM, no longer a part of the Trust Territory, became self-governing and has the right to conduct foreign affairs in its own name. The United States retains the responsibility for the defense of FSM.

G. Republic of the Marshall Islands.

(1) On May 1, 1979, the United States recognized the Constitution of the Marshall Islands and the establishment of the Government of the Republic of the Marshall Islands.

(2) On June 25, 1983, the Government of the United States and the Government of the Marshall Islands concluded a Compact of Free Association between the two governments. In the Marshall Islands, the Compact was approved by the Marshall Islands Government and an United Nations-observed plebiscite on September 7, 1983.

(3) In the U.S. the Compact was approved by Public Law 99-239 of January 14, 1986 (99 Stat. 1770). On October 15, 1986, the Government of the United States and the Government of the Marshall Islands agreed, pursuant to Section 411 of the Compact of Free Association, the Compact became fully effective on October 21, 1986, by Presidential Proclamation No. 5564, dated November 3, 1986.

(4) As of October 21, 1986, the Trusteeship Agreement was no longer in effect in the Republic of the Marshall Islands. Pursuant to Sections 111 and 121 of the Compact, the Republic of the Marshall Islands became self-governing and has the right to conduct foreign affairs in its own name. The United States retains the responsibility for the defense of the Marshall Islands.

H. Commonwealth of the Northern Mariana Islands.

(1) Executive Order 10265, dated June 29, 1951, transferred the administration of the Trust Territory from the Navy to the Department of the Interior.

(2) Executive Order 10408, dated November 10, 1952, transferred responsibility for the administration of the islands of Saipan and Tinian in the Northern Marianas to the Secretary of the Navy to be effective January 1, 1953. Executive Order 10470, dated July 17, 1953, transferred responsibility for the administration of the remaining islands in the Northern Marianas, except for the island of Rota, to the Secretary of the Navy. Executive Order 11021, May 8, 1962, superseded previous orders and transferred the administration of the Northern Marianas back to the Department of the Interior.

(3) In 1976, the Northern Mariana Islands adopted its own constitution. Congress approved the mutually negotiated Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States on March 24, 1976 (Public Law 94-241, 48 U.S.C. 1681(n) 90 Stat. 263). The Covenant was fully implemented on November 3, 1986, pursuant to Presidential Proclamation No. 5564. Sections 101, 104, 301, 302, 303, 506, 806, and 904 became fully effective on November 4, 1986. The domiciliaries of

the Northern Mariana Islands became citizens of the United States. The President vested general administrative supervision of CNMI in the Secretary of the Interior by Executive Order 12572, dated November 3, 1986.

(4) As of November 3, 1986, the Trusteeship Agreement is no longer in effect in the CNMI.

I. Howland, Baker, and Jarvis Islands. The United States took possession of Howland, Baker, and Jarvis Islands under an act of Congress, dated August 18, 1856 (48 U.S.C. 1411-1419, 11 Stat. 120). On May 13, 1936, the President signed Executive Order 7358 placing the three islands under the control and jurisdiction of the Secretary of the Interior for administrative purposes. The Fish and Wildlife Service supervises these islands as wildlife refuges.

J. Palmyra Island. Section 48 of the Hawaii Omnibus Act, dated July 12, 1960 (74 Stat. 411, 424), permits the President to vest authority for the civil administration of Palmyra, a privately-owned island, in such person as he may choose. By Executive Order 10967, dated October 10, 1961 (26 F.R. 9667), the President made the Secretary of the Interior responsible for the civil administration of Palmyra.

K. Wake Island. Section 48 of the Hawaii Omnibus Act (74 Stat. 411, 424) permits the President to vest authority for the civil administration of Wake Island in such person as he may choose. Pursuant to the provisions of Executive Order 11408, dated September 5, 1962, and by agreement between the Secretary of the Interior and the Secretary of the Air Force, the authority of the civil administration of Wake Island is vested in such person as may be designated by the Secretary of the Air Force (27 F.R. 8851).

L. Midway Island. Midway Island was confirmed as a U.S. possession by Executive Order 199-A of January 20, 1903, which accorded the U.S. Navy jurisdiction and control of the Hawaiian Islands and Midway Island. On February 14, 1941, by Executive Order 8682, Midway Island was designated a Naval Defense Sea Area and Airspace Reservation. Administrative control by the Department of the Navy was confirmed by Executive Order 11048, dated September 4, 1962.

M. Johnston Island. Johnston Island is a United States possession utilized primarily for military purposes. It was annexed by both the United States and the Kingdom of Hawaii in 1858. On July 29, 1926, by Executive Order 4467, President Coolidge established the Johnston Atoll as a Federal bird refuge and placed it under the control of the Department of Agriculture. On December 29, 1934, Executive Order 6935 transferred control to the U.S. Navy. Johnston Atoll was designated a Naval Defensive Sea Area and a Naval Airspace Reservation on February 14, 1941, by Executive Order 8692. Control was transferred to the Air Force by Order of the Secretary of the Navy on July 1, 1948 (Public Law 627, Congress approved, effective May 5, 1976). Since the spring of 1973, the Defense Nuclear Agency has been responsible for operational control of Johnston Atoll.

N. Navassa Island. As a consequence of the Guano Islands Act in 1856, Navassa Island was designated a guano island. On February 4, 1916, by Proclamation of President

Woodrow Wilson, the island was declared to be under the sole and exclusive jurisdiction of the United States (39 Stat. 1763). The Proclamation reserved the uninhabited island for a lighthouse (which currently remains in use). The U.S. Coast Guard is responsible for its administration.

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4/27/89 #3421

Replaces 4/27/89 #2851