



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Memorandum

To: James M. Wilson, Jr., Micronesian Status Negotiations

From: Deputy Assistant Secretary for Territorial Affairs

Subject: Your request for a detailed Commonwealth proposal tailored to the Mariana Islands

It will not be possible to develop by November 27, 1972, a "detailed" Commonwealth proposal for the Mariana Islands as requested by you in your memorandum of November 10, 1972. The so-called Commonwealth offer made in the early stages of Micronesian status negotiations will indeed provide a starting point for our proposal for the Mariana Islands. However, the problem cannot simply be resolved by appropriate amendments to that document.

It must be borne in mind that that Commonwealth offer was designed to provide by act of the U.S. Congress for a scheme of government for the whole of Micronesia after the termination of the Trusteeship Agreement. The interim government would have continued, as it is today, under existing Secretarial Order, until the new government was ready to take over.

We are now confronted with a somewhat different problem. The peoples of the Mariana Islands have expressed their desire for a closer political association with the United States along the lines set forth in the so-called Commonwealth proposal - a proposal which has been rejected by the rest of Micronesia. We must respond to their expressed desires at the earliest practicable date. This may mean that we cannot await the termination of the Trusteeship Agreement to give them what they have asked for, because to do so might result in penalizing them by the delays in time that may result from our continuing political status negotiations with the remainder of Micronesia. Moreover, it is also in the best interests of the United States to solidify a closer political relationship with the Mariana Islands as soon as possible.

It is impossible, however, to create such a new relationship with the enduring characteristics which it eventually must have without appropriate action by the U.S. Congress; but the Congress cannot act in a binding way until the Trusteeship Agreement has been

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terminated. Nevertheless, we feel that it is imperative to prepare now a framework within which the future government for the Mariana Islands can take on form and substance. Accordingly, our present proposal to the peoples of the Mariana Islands will have to be structured within the framework of existing legal machinery. This will entail a three tiered approach.

As a first step, we propose, by Executive Order, to offer, with appropriate amendments, as much of the so-called Commonwealth proposal as is possible. Obviously, those parts of that proposal that would require legislative action by the U.S. Congress cannot be extended at this time. However, subject to this limitation, we will provide for a Constitutional Convention to form a government for the Mariana Islands District which eventually will be called the Commonwealth of the Mariana Islands. The Constitutional Convention machinery will be structured substantially in the form contained in the Commonwealth proposal but will not involve any U.S. Congressional participation at this time. The government to be formed will be republican in nature, consisting of the traditional executive, legislative and judicial branches. In delineating the framework of the government we will attempt, to the extent it is compatible with the Commonwealth proposal and the wishes of the peoples of the Mariana Islands, to track the government formed for Guam by its enabling legislation. Thus, the Executive Order will spell out in greater detail the organization, powers, responsibilities and limitations of the executive and legislative branches of the local government. With regard to the judicial branch it will authorize the establishment of a paramount court and such lesser courts as may be necessary. It is our eventual plan to extend the jurisdiction of the District Court of Guam to include the Commonwealth of the Mariana Islands and change its name to the District Court for the Western Pacific. In this way there will be a common judicial system for the entire area. But this will require legislation by the U.S. Congress.

In respect to fiscal matters, it will be necessary, for the time being at least, to stay within the existing annual appropriations machinery with an appropriate apportionment to the Mariana Islands for the conduct of their government and business. Eventually, however, after the new government has been established, we would hope to use a multiple approach which makes use of both matching funds (annual grants) and a development and capital improvements authorization available over a number of years. In addition, we would provide for grants to cover transitional costs.

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Direct Federal financial assistance to the Commonwealth of the Mariana Islands would be designed in such a way as to be proportionately phased out as the ability of the local economy to support its own revenue needs increased. Finally, we would expand the duties of the Government Comptroller on Guam to include audit and control assistance to the Commonwealth.

In regard to eminent domain we would expect to revert to a more traditional concept. The power of Federal eminent domain was severely limited in the Commonwealth proposal, and we do not believe, at least at this time, that such limitations would necessarily be compatible with the closer relationship which we envision for the Mariana Islands. This item, however, undoubtedly will be the subject of future discussions with the peoples of the Mariana Islands.

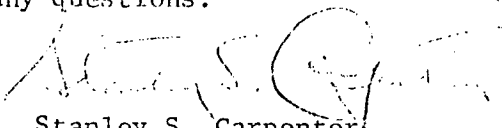
As a second step, as soon as the government for the Commonwealth of the Mariana Islands has been formed pursuant to step one, we would propose legislation to the U.S. Congress to implement features of the new government which could not be taken care of in the Executive Order. Thus, for example, Congress could be asked to extend the jurisdiction of the District Court of Guam as previously mentioned, to provide Headnote III(a) treatment to goods coming into the United States from the Commonwealth of the Mariana Islands, and to provide for representation for the peoples of the Mariana Islands in the U.S. Congress by the non-voting delegate from Guam. All of these legislative proposals will be designed, as much as possible, to equate the Mariana Islands to Guam, to create common ties between the two areas and to create a common trade zone within the United States system while at the same time protecting Guam from economic or other stresses that might flow from the new relationship.

The final act in our trilogy would occur upon termination of the Trusteeship Agreement. At that time, a bill would be introduced in the U.S. Congress, the effect of which would be to call for Congressional approval of the government for the Mariana Islands which has been created pursuant to the Executive Order. In addition, the bill would contain final authorizations and grants, such as citizenship, and for fiscal management, and collection of revenues which could not previously have been given.

We are currently working on a draft Executive Order and hope to have it completed next month. We will then turn to framing the two legislative proposals so that hopefully by the first of the year, we will have a complete proposal.

Please let us know if you have any questions.

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Stanley S. Carpenter
Deputy Assistant Secretary
for Territorial Affairs