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MEMORANDUM FOR THE FILE

SUBJECT: Other Items of Interest at the August 22
Meeting of the Committee on Political Status/
Legal Issues

The attached letter from Howard Willens to C. Brewster Chapman summarizes the results of the first meeting of the Committee on Political Status/Legal Issues. Other items of interest which came up in the meeting include:

1. U.S. Citizenship and Nationality.

Chapman prefers that the procedure for the Marianas people becoming U.S. citizens not be automatic -- i.e., they become citizens unless they indicate otherwise. Rather he prefers that each individual would have to signify affirmatively that he wants to be a citizen, although this could be a most simple procedure, perhaps involving nothing more than the individual making a declaration of his wish to become a citizen.

Herman Marcuse expressed serious doubts whether a citizen of a foreign country, such as the Philippines or the new Micronesia, could become a U.S. citizen or even a U.S. national without renouncing his other citizenship.

2. Article 4, Section 3, Clause 2.

As noted in the attached letter, Chapman hesitated to accept as a working approach in defining

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federal authority in the Marianas the following: Federal powers would include those which the Federal Government has in relation to the states plus any specifically stated additional powers (if any). He apparently hesitated because he was not prepared to address the issue at this early stage. Marcuse and O. Thomas Johnson seemed attracted to the approach as a matter of methodology.

As for Chapman's substantive views, he apparently contemplates that the Marianas Government would be organized by the same method as territorial governments have been organized in the past -- i.e., acceptance of the territory by the United States and a Congressional "granting back" of local government powers.

3. Applicability of Privileges and Immunities Clause.

There was complete agreement among the U.S. representatives on the need for limits on the transfer of interests in land in the Marianas. The U.S. representatives seemed willing to assist the Marianas in drafting specific exceptions to the privileges and immunities clause to allow this.

4. Possible Review Provisions.

In response to a suggestion that there be a provision in the status agreement for a formal review every five years, Chapman seemed willing to accept some arrangement. However, he seemed to lean toward a formal internal review

within the Marianas followed by voluntary action by the Department of Interior. He argued that the Interior Department was sensitive to the needs of the Marianas. He specifically suggested the analogies of American Samoa and Guam where he said there were mechanisms for periodic Constitutional conventions. He said the Interior Department had always supported the recommended changes, except when some suggestion was really "far out." [The history, especially in 1968, does not support Chapman's broad claim.]

5. Use of a Treaty.

Chapman strongly opposed the use of any U.S.-Marianas treaty as the document embodying or accompanying the status agreement. He said that it meant that "the U.N. and others" would scrutinize the arrangement more carefully. He also indicated that he prefers to deal with the Interior Committees of Congress rather than the more unfamiliar Foreign Relations Committees; the treaty would probably put the matter within the Foreign Relations Committees. [Since the United Nations will be involved in the termination of the Trusteeship anyway, Chapman's main concern seemed to be the question of Congressional committees.] Chapman later seemed to contradict himself when he suggested a "treaty of cession"

would be one step in changing the Marianas political status.

Howard Willens said the Marianas side was withholding judgment on what would be the best legal document until they had studied the issue further. However, he noted that the question of the sovereignty of the Marianas people was a matter of major concern.

6. Eminent Domain.

In the course of a discussion on the limits of federal power under Article 4, Section 3, clause 2, Chapman gratuitously remarked that the exercise by the federal government of the power of eminent domain was "constitutionally permissive" -- i.e., the federal government could agree in a binding way to limit its exercise of this power. In conjunction with the fact that the United States agreed to limits on such power in the draft Compact of Free Association for the whole of Micronesia, Chapman's statement (which was not pursued at the meeting and is beyond the scope of this Committee) provides food for thought in preparing for our next meeting -- particularly with reference to the military land issues.

Barry Carter

cc: Mr. Pangelinan
Mr. White
Mr. Willens
Mr. Lapin