

CONFIDENTIAL

03/215
DECLASSIFIED/RELEASED
ON JUL 10 1985 UNDER PRO-
VISIONS OF E.O. 12355 BY
YHCE D.R. DOLAN, USN
SPECIAL ASSISTANT, OCSA

DRAFT:AdeG:kkc:11-20-73

MEMORANDUM OF CONVERSATION

Subject: U.S./Marianas Status Commission Legal Group meeting 16 NOV 73

Participants:

U.S.

Brewster Chapman
Tom Johnson
Adrian deGraffenried

MARIANAS

Howard Willens
Jay Lappin

Brewster Chapman started the meeting by noting that after consultation with the various U.S. agencies, he could state that there seemed to be no problem with the MSC tax proposals with the exception there be (1) no taxation of U.S. instrumentalities or (2) special income benefits for servicemen (i.e., living/quarters allowances).

The subject of applicability of U.S. laws was then discussed. The U.S. delegation noted that we agreed with their approach to have the general laws applicable to Guam also apply to the Marianas upon the effective date of the U.S.-Marianas agreement and this was the U.S. approach in the U.S. draft sent to Howard Willens after its suggestion by the MSC Group. It was noted that this was intended as an interim arrangement that would permit the MSC to talk with various Guam officials to determine which specific laws appeared to be problematic for Guam and which the MSC might want to avoid after the Statutory Commission makes its recommendations. The MSC noted that they did not want an interim approach but one that would minimize the effect of the Statutory Commission by enabling the Marianas to survey the general laws applied to Guam and then having those not of benefit to the Marianas to be later withdrawn.

We noted that the Statutory Commission would determine which laws would apply to Guam as a territory and would apply to Guam as if it were a State. The MSC again noted that they did not want the Statutory Commission to super-

UNCLASSIFIED

03-411675
DAN SN-75

CONFIDENTIAL E D

cede laws of substance already agreed upon to apply to the Marianas. Thus, under the MSC approach, the U.S. Congress would enact laws for the Marianas under Article IV, Section 3, Clause 2, as they do for all U.S. territories, but the U.S. Congress would have no greater authority under IV, 3, 2, for the Marianas than it now holds for States of the Union. [This approach would limit the authority of the U.S. Congress under IV, 3, 2, and is an attempt to insure the local, internal autonomy of the Marianas Commonwealth]. We noted that the Statutory Commission would not act as a dispute settlement system to determine which laws did or did not apply, but rather that the courts would be used to determine which federal laws applied to Guam and the Marianas and which did not when the federal statutes did not specifically include Guam in its application. We did want to give the Statutory Commission the chance, however, to recommend which laws should apply to the Marianas as if it were a State. To this, the MSC attorneys noted that if this work were done, and they hoped that it would commence upon approval of the agreement, before the U.S. Congress acts to extend the general laws of Guam to the Marianas, then the Marianas would have the opportunity to prevent those laws from applying to the Marianas which it felt were not in the best interests of the Marianas. However, the MSC agreed that if the Statutory Commission work was undertaken after the USC acted, then it would be best to utilize the courts for the determination of which U.S. laws applied and which did not.

It was agreed that Herman Marcuse would undertake to reconcile the two versions of the applicable laws section in the next few days to enable the MSC/U.S. lawyers to meet again before the Marianas talks.

The new MSC citizenship proposal is also to be reviewed by Mr. Marcuse.

U N C L A S S I F I E D

411676