

TALKING POINTS FOR MARIANAS DISCUSSION

April 12, 1973

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I. Replies to Marianas Delegation Questions From Saipan Meeting

- A. Formal replies herewith.
- B. Some answers deferred till talks.
- C. Some further internal consultations still necessary on U.S. side.
- D. Question of publication/press handling of questions and answers (To remain between delegations for now).

II. Review of Issues to be Negotiated in May.

A. Political Status Alternatives.

- 1. Possible forms of association.
  - a. Modified commonwealth status (on 1970 plan).
  - b. Unincorporated territorial status.
  - c. Unification with Guam - with possible alternatives as to degree and timing.
  - d. Other ideas.
- 2. Labels relatively unimportant. Essential question is what position to take on specific components and to examine available alternatives in each component.
- 3. Applicability of Federal laws and regulations.
  - a. Applicability of U.S. Constitution and Bill of Rights.
    - (1) Dependent to some degree on type of status selected.
    - (2) Optional applications.
  - b. Applicability of Federal Legislation.
    - (1) Mandatory Legislation (to be elaborated by U.S.)
    - (2) Optional legislation (MSC to elaborate)

Desired by Marianas  
Undesired by Marianas

4. Nationality and Citizenship.
  - a. Close relationship to other issues (e.g., land alienation).
  - b. Benefits and obligations.
    - (1) Economic
    - (2) Political
    - (3) Educational
    - (4) Other.
5. Nature of National Representation in Congress.
  - a. Relationship with Guam.
  - b. Decisive role of Congress.
6. Judicial and Court System.
  - a. Relations to Federal Court System.
  - b. Possible relationship to Guam .
7. Organization of Local Government.
  - a. Possibility of locally-drafted Marianas Constitution.
    - (1) Compatibility with U.S. Constitution.
    - (2) Bill of Rights.
    - (3) Other requirements.
      - (a) Republican form of government.
      - (b) Separation of powers.
  - b. Possibility of U.S. Congressional Organic Act or other legislation.
  - c. Carry over of local legislation.
    - (1) Marianas District.
    - (2) Congress of Micronesia
  - d. Carry over of local administrative rulings.

(1) TTPI Administration.

(2) DISTAD decisions and regulations.

B. Land Questions

1. Military requirements.

a. Present needs - to be outlined in talks.

b. Future needs.

c. Possible methods of acquisition.

(1) Legal conveyances.

(2) Reimbursement and related inducements.

d. Private land settlement.

e. Public land settlement.

(1) Entity with which to deal.

(2) Outstanding disputes.

(3) Outstanding leases etc.

2. Federal non-military land requirements.

a. Coast Guard.

b. Other Government Services.

3. Escheat - See treatment in Q&A.

4. Return of public lands to the Marianas.

a. See Q&A on basic position and question of when land to be returned.

b. To whom is it to be returned ?

(1) Legal entity concerned.

(2) Limitations on action.

c. Handling of COM and TTPI administration interests in public lands.

d. Settlement of outstanding disputes.

- e. Submerged lands.
- 5. Protection against land alienation.
  - a. Alternatives available.
    - (1) Local legislation.
    - (2) Constitutional provisions.
    - (3) Trust and holding companies.
    - (4) Other.
  - b. Public and private land.
  - c. Legal problems and alternatives.
- 6. Federal eminent domain.

C. Financial and Economic Questions

- 1. Application of Federal programs.
  - a. Programs of automatic applicability under varying statuses.
    - (1) Social Security
    - (2) Welfare
    - (3) Housing
    - (4) Education
    - (5) Banking and currency.
    - (6) Loan programs.
    - (7) Highways.
    - (8) Others.
  - b. Programs of optional applicability.
  - c. Estimated Economic impact and benefits.
- 2. Special support arrangements.
  - a. Approach on basis of needs.
  - b. Present levels of support (agreement on figures).
  - c. Future prospects.

- (1) Transitional Costs.
    - (2) Other contingencies.
  3. Financial and economic benefits from military activities (studies underway).
    - a. Direct benefits.
      - (1) Construction
      - (2) Leases
      - (3) Salaries
    - b. Indirect benefits.
      - (1) Local purchases.
      - (2) Services
      - (3) Maintenance and construction fall-out.
      - (4) Other.
  4. Other economic benefits.
    - a. Business expenditure.
    - b. Foreign trade and investment.
    - c. Tourism related to U.S. association.
  5. Need for U.S. Congressional approval.
- D. Nature of the Agreement
1. Dependent in a degree on basic status decisions.
  2. Legal instrumentality: respective obligations and program for further action by legislatures, etc.
  3. Legislative alternatives.
- E. Transitional Arrangements
1. Interim legal implementation
    - a. Alternatives

- (1) Legislation
  - (2) Executive Order
  - (3) Secretarial Order amendment.
- b. Timing.
2. Procedures for Implementation of Agreement.
- a. Approval procedures.
    - (1) Marianas
    - (2) United States
  - b. Plebiscite arrangements.
    - (1) Nature of vote.
    - (2) Necessary majorities.
    - (3) U.N. participation
  - c. Procedures in U.N. Trusteeship Council and Security Council
  - d. Relationship to rest of TTPI.
  - e. Political education
3. Administrative considerations in implementation.
- a. Administrative separation from rest of TTPI.
    - (1) Separation of government functions.
      - (a) Executive
      - (b) Legislative
      - (c) Judiciary.
    - (2) Timing
    - (3) Relocation of TTPI Administration
    - (4) Possible procedures for local constitutional approval and implementation.
4. Interim implementation of military provisions.

5 Interim financial and economic activities.

- a. Budget considerations.
- b. Foreign investment and MFN.
- c. Trade and Commercial arrangements.

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RESPONSES TO MARIANAS QUESTIONS

1. Has the United States Delegation, or any member, made contact with members of the United States Congress or staff regarding these separate Status Talks?

Yes. We have been in touch with individual members of the Congress and have also appeared recently in formal hearings at the request of the Committees of both the Senate and House of Representatives where the subject was discussed.

2. If so, what were their reactions to such talks?

The views expressed in the formal hearings are a matter of public record. Generally speaking views expressed by individual members of the Congress outside the hearings have supported the position on separate status negotiations.

3. What special problems, if any, do members of the United States Delegation anticipate in Congress with respect to the separate status of the Marianas?

The Congress is of course a separate branch of the U.S. Government and speaks for itself. Definitive reactions from its members cannot really be expected until more progress has been made in negotiations, but no special problems are foreseen at this time.

4. Will the United States Delegation join our mission in requesting the High Commissioner to not lease any public lands without first consulting our Commission?

The High Commissioner will certainly give full weight to the counsel of the Marianas Delegation in any particular transaction. As you know, he now consults with the Marianas Land Commission on proposed leases to non-citizens. We are confident that the interests of the Marianas Delegation will be carefully observed during the period of our negotiations.

5. Does the United States Delegation have available any comprehensive lists of Federal programs and services which would be made available to the Marianas?

We have forwarded available lists of current U.S. Federal programs and services now applicable to the Marianas, as your consultants and attorneys have requested. We would be happy to forward any other public materials you may desire. There is as yet no list of Federal programs and services that will be made available under a new future status. The kinds and comprehensiveness of these Federal programs and services will be an integral part of our negotiations.

6. If the Commission decided on a non-citizen association of the people, will this affect any of the above programs, and also what differences would this create in the "full package of rights" for U.S. citizens?

As to the first part of your question, U.S. Federal Programs are determined more by the political relationship of the territory with the United States than by whether the local residents are U.S. citizens or nationals. American Samoa is a good example of this. As to the latter part of your question relating to



the "full package of rights" for U.S. citizens, you may wish to know that certain of the U.S. Constitutional protections have been extended to the U.S. territories. If you desire specific U.S. Constitutional protections we hope you will raise these points at our next round of negotiations.

7. Would the people of the Marianas have to take certain Federal programs if they do not desire them?

The kinds and comprehensiveness of the U.S. Federal Programs available to the Marianas are, as noted earlier, to be negotiated in our status talks. If there are particular programs you would desire to be applicable to the Marianas we would hope they would be brought forward at that time, and if you have particular objections to certain Federal Programs we would hope you would detail your objections at that time.

8. Are there materials in the possession of the U.S. Delegation relevant to Guam, American Samoa, Puerto Rico, Virgin Islands, Hawaii and Alaska available to our Commission?

We have, in response to earlier requests, forwarded relevant public documents on these territories and stated to your counsel and consultants. Any other similar materials will be made available upon request.

9. Would this include background material regarding the negotiations leading up to the final decision fixing the potential status of these areas?

All background materials to which you refer that are in the public domain would also be made available upon request.

10. Will the U.S. Delegation make available to the commission any studies regarding the economic resources and needs of the Marianas, and can a list of these studies be prepared?

We understand the desire of the Commission to have as much information available on economic matters as possible so as to accurately forecast and meet the future development needs of the district. It is our intention to cooperate fully with you in this regard. All economic studies and materials that have been prepared and are in the public domain will be made available to the Commission.

11. With respect to the United States land needs in the Marianas - how can the Commission satisfy itself that only the Federal Government's "minimal needs" are involved?

The United States is keenly aware of the importance of land to the people of the Marianas and will give every consideration to local views in formulating its requirements. These will represent minimal needs but must be understood at the same time to be determined also by our broader security interests in the Western Pacific.

12. Can we have the benefit of any legal analysis conducted by the U.S. Delegation regarding the land alienation issue?

We are fully sympathetic with your concern over the issues surrounding the alienation of land in the Mariana Islands. We would be happy to share

the basis for our position with the Commission and have forwarded the legal opinion of the Department of Justice to your Washington counsel. We will be happy to make other material available on request.

13. In your speech you mentioned a series of studies - does this mean a study of each island, or does this series refer to functions applied to the whole district? When will these studies be available? As to those that have been completed now, will those be given to the Commission for its use?

The studies to which I referred apply to the Mariana Islands as a whole. We view all the various islands as an integral part of the future Marianas status relationship that we are negotiating. The studies, however, are a part of our internal working papers and will have to remain so.

14. What is meant by the words in your speech "public trust lands" - Does it cover both public and military retention land?

We make a distinction between public trust land and military retention land and will be addressing each in more detail when the subject of land requirements comes up for detailed discussion.

15. Is the United States willing, upon establishment of our new association, to have all public and military retained lands turned over to this new government body, and then negotiate with this new governmental body for the land needs of the military and other Federal agencies; or, are these land needs required to be a part of the agreement for the new governmental association itself?

The United States position on the return of public and military retention lands to the Marianas has been stated on several occasions. The question is not whether these lands must be returned out how soon. We expect to discuss this with you in depth during the forthcoming negotiations.

16. Assuming long-lease ideology instead of total alienation of land, will the military also use long-lease for its uses?

As you know, the U.S. military currently operates under a variety of land agreements. Our specific proposals will be presented during the forthcoming negotiations.

17. Can the principle of "escheat" generally applicable to the states, apply to the Marianas as an entity, even though it is not a state?

While we support the underlying principle of escheat that the ultimate ownership of the property within a jurisdiction belongs to the state, we would need further elaboration on the specific escheat proposals you have in mind. Modified forms of escheat are applied in the case of the other territories, but this is a complicated legal doctrine which requires careful treatment.

18. Can a formula be worked out where funds could be made available, taking into consideration the needs and resources so that yearly budgetary needs do not need to be justified to the U.S. Bureau of the Budget and the United States Congress?

All Federal funds must be authorized and appropriated by the Congress of the United States. This would necessarily involve annual budgetary justification to the Office of Management and Budget as is the case in all U.S. territories. Nevertheless, the United States is mindful of the desires of the Marianas for the promotion of economic development and it does not intend to restrict that growth but rather to work with the Marianas in a joint effort to accomplish those objectives. As a member of the American political family, the Marianas could expect fair and equitable consideration on its requests from the United States Government.