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August 21, 1973

MEMORANDUM FOR MESSRS. WILLENS AND CARTER

Subject: Marianas; Background memorandum for Congress

Enclosed is a draft background memorandum for possible use in connection with meetings with members of Congress and their staffs. Although I have spent a considerable amount of time playing with this draft over the last two weeks, it is in very rough form. I am circulating the draft for your comment and review mainly to get the benefit of fresh insights and organizational suggestions rather than for "final editing."

At some point it will be necessary to work into the draft additional cross-references to the attachments, which I propose should include the Joint Communique, the statement of the Marianas representatives before the Trusteeship Council, and the resolution and enabling act of the District Legislature that created the Marianas Political Status Commission.

While I am on the subject, I wish to emphasize that I don't think we should circulate this draft to anyone on the Hill until Howard, and perhaps all of us, has registered as lobbyists.

JFL

Enclosure

01-05003

DRAFT
August 16, 1973

Background Memorandum on the Mariana Islands
District of the Trust Territory
of the Pacific Islands

Representatives of the Mariana Islands District of the Trust Territory of the Pacific Islands have recently opened talks with the Executive Branch of the United States Government to explore the creation of a new political relationship between the Marianas and the United States. The people of the Marianas regard these negotiations as a major step toward fulfillment of their deeply-felt and often-expressed desire for a closer political affiliation with the United States. Recognizing that the Congress of the United States will play a critical role in approving and implementing any new political status for the Marianas, this memorandum has been prepared as part of an effort to keep the Congress informed on the progress of the on-going status negotiations and, hopefully, to secure further understanding and support for the goals and aspirations of the Marianas people.

1. Description of the Mariana Islands.

The Mariana Islands District of the Trust Territory of the Pacific Islands consists of an island chain located in the Western Pacific; it lies a few hundred miles due north of the United States territory of Guam. Following World War II, the United Nations constituted all of those

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Pacific islands formerly under Japanese (League of Nations) mandate into a single Trust Territory of the Pacific Islands. The United States assumed the role of Administering Authority for this territory pursuant to a trusteeship agreement.

The Trust Territory, also called Micronesia, ranges across thousands of miles of ocean and includes people of markedly different cultural and ethnic heritage. The Marianas are located in the far western corner of Micronesia. Its population of roughly 14,000 persons is largely settled on the three main islands of Saipan, Tinian and Rota. About three-fourths of the Marianas people are Chamorros, descendants of the original population. Because of their common ancestry, the people of the Marianas share cultural, religious, and language ties with the people of Guam. Indeed, Guam was at one time administered by the Spanish as part of the Marianas, and the separation of the Marianas from Guam was occasioned by the "historical accident" of the Treaty of Paris ending the Spanish-American War.

Whereas Guam became a territory of the United States and its people began to enjoy the freedom and prosperity of American democracy, the people of the islands to the north continued in their role as a subjugated race. In quick succession, the islands passed from the Spanish to the Germans and finally to the Japanese under the League of

Nations' mandate. Although Japanese rule brought relative prosperity to the islands, the prosperity was not shared with the indigenous inhabitants. In the end, the Japanese presence brought death and destruction to the people of the Marianas as the islands were the scene of some of the bloodiest battles in the Pacific.

Under United States administration, the people of the Marianas have begun to enjoy freedom from political subjugation and from economic exploitation for the first time in 400 years. The benefits of an even closer relationship with the United States were clearly evident from the progress made by neighboring Guam toward local self-government and economic self-sufficiency. Accordingly, over the years, the people of the Marianas have persistently expressed their desire for closer and more secure ties with the United States. Such expressions have come in the form of resolutions passed in town meetings, municipal councils and the District Legislature and from the results of referenda of the people.

2. Origin of the United States-Marianas Status Negotiations.

To understand the current United States-Marianas status negotiations, it is necessary first to review briefly the history of efforts to explore future political status alternatives for the Trust Territory as a whole.

The Trusteeship Agreement requires the United States to

"promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the people concerned."

On August 21, 1967, President Johnson sent a message to Congress proposing to create a Presidential Commission on the Status of the Trust Territory as a "step toward self-determination" for the people of Micronesia. When in that same month the Congress of Micronesia created its own Future Political Status Commission, the Johnson proposal lapsed. In September 1969, the United States opened talks with a delegation from the Congress of Micronesia to explore future political status alternatives for the Trust Territory as a whole. Representatives of the Marianas participated in the work of the Micronesia delegation.

The history of the negotiations between the United States and the Micronesian delegation, now called the Joint Committee on Future Status, has been a lesson in frustration for the United States, the people of Micronesia, and especially for the people of the Marianas. The Joint Committee's insistence on a compact of free association between the United States and Micronesia was met with concern in the Marianas that its desire for a close and enduring

relationship with the United States would be frustrated. When in April 1972 it became clear that the Joint Committee would settle for nothing less than the right of unilateral termination of its relationship with the United States, the concern of the people of the Marianas became genuine alarm.

In April 1972, the Marianas representatives to the Joint Committee renewed their request for separate discussions with the United States. In light of the developments in the talks with the Joint Committee, the United States agreed to the Marianas request. In May 1972, the Marianas District Legislature created the Marianas Political Status Commission to study political status alternatives for the Marianas and to conduct negotiations looking toward a close and enduring political relationship with the United States following termination of the trusteeship. The Marianas Commission is broadly representative of all the ethnic, political, economic, and social interests in the islands.

In August 1972, the worst fears of the Marianas people were confirmed when the Congress of Micronesia changed its instructions to the Joint Committee and directed it to negotiate with the United States on independence for Micronesia. In December 1972, an opening session of the United States-Marianas status talks was convened in Saipan. Following this largely ceremonial session, the Marianas

Commission initiated thorough studies of the legal, economic and other consequences of various political status alternatives. At the same time, the Commission conducted extensive consultations with the people on the various possible subjects of negotiation with the United States. In May and June of this year, the Commission and the United States delegation engaged in six weeks of intensive substantive negotiations which culminated in the Joint Communique of June 4, 1973 (copy attached).

The separate negotiations with the Marianas Commission have been the subject of criticism by the Congress of Micronesia and by certain members of the United Nations Trusteeship Council, notably the Soviet Union. The Executive Branch of the United States Government has rightfully rejected this criticism and has reaffirmed its intention to continue the talks. Nevertheless, we believe it is essential for the United States Congress to understand that the charges levied against both the United States and the Marianas people are groundless.

In recent debates before the United Nations Trusteeship Council, the Soviet Union charged that the United States was fomenting separatism in the Trust Territory. But the facts belie this assertion. It is the Marianas people, not the United States, who initiated the

requests for separate status talks. Such requests clearly reflect the sentiment of the overwhelming majority of the people as expressed countless times over the years through referenda and resolutions passed by their elected officials.

Furthermore, the allegations of separatism or "secessionism" proceed from a faulty premise, namely that there is some legal principle or policy under which the territorial unity of Micronesia must necessarily be preserved regardless of the freely expressed wishes of a distinct group for a separate status. There is no such principle or policy. The United Nations has enacted resolutions condemning actions by member nations designed to disrupt the territorial integrity of another member and acts of administering powers designed to impose separatism upon dependent territories against the wishes of the people concerned. But the United Nations has never precluded disparate parts of dependent territories from realizing the freely-expressed wishes of their peoples to pursue a separate political status. Indeed, the territories of Rwanda-Burundi and the Cameroons were each allowed to split-up upon the termination of their dependent status. Parts of other territories have been allowed to separate from the territory as a whole in order to become incorporated into an existing country. This flexibility has been necessary to accommodate the fundamental right of the people

concerned to achieve genuine self-determination.

If ever a case could be made against the "preference" for territorial unity, the Trust Territory of the Pacific Islands is that case. With distinct island groups of greatly differing language, customs and ethnic origin, Micronesia has been described as merely a term of geography. When one considers that thousands of miles of ocean separate these island districts, even the appropriateness of this description is subject to question.

The Trust Territory was constituted as a single entity purely as a matter of administrative convenience, without consultation of the people concerned. Even so, Article 6 of the Trusteeship Agreement recognizes the existence of ethnic differences among the people and the implications of these differences with respect to their right to self-determination. If the Marianas were forced, against the will of their people, to remain a part of Micronesia and to accept a political status arrangement that did not reflect the wishes of the overwhelming majority of those people, the paramount principle of self-determination would be a hollow concept indeed.

Closely related to the charge of "secessionism" is the allegation that the Marianas Commission has usurped the sole authority of the Joint Committee to negotiate on

the future political status of the Trust Territory. Again, the facts belie the assertion. The Marianas continue to recognize the right of the Joint Committee to act as sole negotiator on the future political status of Micronesia as a whole. The two Marianas delegates to the Joint Committee continue to participate in the work of that body. Furthermore, the Marianas Commission has no objection in principle to a referenda in the Marianas allowing the people to express their views on any political status alternative negotiated by the Joint Committee.

The Marianas Commission does not seek to deprive the people of any legitimate status alternative in choosing their own political destiny. To the contrary, it seeks merely to provide an additional alternative for selection by its people, an alternative that reflects the overwhelming sentiment of the people of the Marianas for close association with the United States. In this regard, the position of the Congress of Micronesia and of the Joint Committee is wholly untenable. The Joint Committee has informed the United Nations Visiting Mission to the Trust Territory that it would not oppose a close, and presumably separate, political relationship between the Marianas and the United States if such a status reflected the freely expressed wishes of the majority of the people. Yet, in attempting to block

the separate United States-Marianas status negotiations, the Congress of Micronesia would take away the only apparent means by which the people of the Marianas could have an opportunity freely to choose the alternative of close association.

The Marianas Commission has no desire to undercut or hamper the negotiations of the Joint Committee. Given the current United States view that termination of the Trusteeship could only occur simultaneously for all districts of Micronesia, the Marianas has every incentive to encourage the United States and the Joint Committee to accelerate their negotiations, so that the political aspirations of the people of the Marianas and of all Micronesians can be realized at the earliest possible date.

3. Marianas Goals in the Current Status Negotiations.

Pursuant to the mandate of the District Legislature, the Marianas Political Status Commission is committed to explore the means by which the people of the Marianas, through the exercise of their right of self-determination, can enter into a close and enduring political relationship with the United States.

The Marianas would become a member of the "American political family" through a formal status agreement which vested sovereignty over the Marianas in the United States. The people of

the Marianas would retain the right of self-government in local matters. Otherwise, the authority of the United States Government would extend to all matters of national concern such as defense and foreign affairs, interstate commerce, etc. In general, the power of the federal government in the Marianas would be coextensive with its power in the States.

The people of the Marianas are mindful of the fact that economic self-sufficiency is essential to any measure of genuine self-government. The United States has already expressed its commitment to the goals of raising significantly the per capita income of the people of the Marianas and moving the Marianas progressively toward economic self-sufficiency. In addition to the need for short-term financing of government operations, the Marianas will require support for essential capital improvement projects and, in general, for intensive development of the islands. Because long-term planning for such development is essential, the Marianas Commission has requested that the United States commit itself to a fixed, and mutually satisfactory, level of financial support over an initial period of years.

On the subject of land, the Marianas seek a return of all public land now held in trust by the United States under the Trusteeship Agreement. Land in the Marianas is

both its most scarce and most precious resource. Nevertheless, recognizing that as part of the American political family the Marianas have a responsibility to contribute to the United States defense role in the Western Pacific, the people of the Marianas are prepared to make land available to meet United States military needs. As the Congress is no doubt aware, the United States has proposed a major military base that could occupy two-thirds of the island of Tinean. Despite reservations about the specifics of the military's plans for Tinean and its contingency requirements on Saipan, the Marianas Commission is favorably disposed toward recognizing the need for a significant military presence in the islands. It will be critical, however, in the next few rounds of negotiations for the United States to respond to any reservations expressed as to the specifics of the United States proposals so that the people of the Marianas can be satisfied that all of the land to be made available is in fact required to meet genuine United States military needs.

Given the twin goals of local self-government and economic self-sufficiency for the Marianas, it is perhaps inevitable that the future relationship between the United States and the Marianas will be somewhat unique. In the Joint Communique of June 4, 1973, the Marianas' future status

is described as that of a "commonwealth," although there is no intention or desire to imitate the Puerto Rico experience. Rather, the term commonwealth is merely a general framework which will derive its substance and meaning from the terms of a formal status agreement itself.

Insofar as that agreement departs from the standard format under which the United States presently governs its territories, it will not neglect any legitimate United States interest. It must be recognized, however, that the future status of the Marianas in the American system will be the first such relationship which is the product of free and open negotiations between the parties concerned. The special needs of the Marianas, therefore, will inevitably shape certain terms of the status agreement to protect the interests of the people of the Marianas. Moreover, because the provisions under which the Marianas move from their current status of a trust territory will be subject to United Nations approval, it will be important for both the Marianas and the United States to satisfy the United Nations that the new political relationship provides adequate assurances of self-government for the people of the Marianas and otherwise reflects a free decision of the people concerned to choose their political destiny.

Over the years it has been recognized that the United States Constitution provides ample flexibility in shaping the relationship between the central government and a dependent territory. While serving in the Department of War in 1914 in connection with territorial affairs, Felix Frankfurter observed:

"The form of the relationship between the United States and unincorporated territory is solely a problem of statemanship. History suggests a great diversity of relationships between a central government and dependent territory. The present day shows a great variety in actual operation. One of the great demands upon inventive statemanship is to help evolve new kinds of relationships so as to combine the advantages of local self-government with those of a confederated union. Luckily, our Constitution has left this field of invention open." Quoted in Mora v. Torres, 113 F. Supp. 309 (D.P.R. 1953).

The Marianas Commission has expressed the view that the United States delegation to the status talks should not feel constrained by frameworks for territorial governance established unilaterally by the United States over the last half-century. For their part, the people of the Marianas are hopeful that there will be no constitutional or political impediment to creating a new political status relationship for the Marianas that recognizes the unique circumstances under which the Marianas propose to become a member of the American political family as well as the special role the

Marianas are prepared to play in the United States effort to defend itself and to maintain peace in the Pacific.