

15 BM
RICHARD H. WILMER
LLOYD N. CUTLER
JOHN H. PICKERING
MANUEL F. COHEN
HUGH R. H. SMITH
LOUIS F. OBERDORFER
J. ROGER WOLLENBERG
CHARLES C. GLOVER, III
MARSHALL HORNBLLOWER
HENRY T. RATHBUN
REUBEN CLARK
SAMUEL J. LANAHAN
WILLIAM R. PERLIK
SAMUEL A. STERN
ARNOLD M. LERMAN
ROBERT P. STRANAHAN, JR.
MAX O. TRUITT, JR.
JOEL ROSENBLUM
HOWARD P. WILLENS
ANDREW T. A. MACDONALD
ROBERT A. HAMMOND, III
DANIEL K. MAYERS
TIMOTHY B. DYK
DAVID R. ANDERSON
J. RODERICK HELLER, III
ARTHUR F. MATHES
JAMES S. CAMPBELL
DENNIS M. FLANNERY
DANIEL MARCUS
JAMES ROBERTSON
EZEKIEL G. STODDARD
ALFRED E. DAVIDSON
GERARD C. SMITH
COUNSEL

WILMER, CUTLER & PICKERING

FARRAGUT BUILDING
900 17TH STREET, N.W.
WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRING, WASH., D. C.
INTERNATIONAL TELEX: 440-239
TELEX: 89-2402
TELEPHONE 202-296-8800

EUROPEAN OFFICE

5, CHEAPSIDE
LONDON, EC2V 8AA, ENGLAND
TELEPHONE 01-236-2401
TELEX 851 883242

CABLE ADDRESS: WICRING, LONDON

22 B 01
5

RICHARD A. ALLEN
PETER A. BELL
PETER D. BEWLEY
PETER W. BILLINGS, JR.
STEPHEN F. BLACK
TIMOTHY N. BLACK
MICHAEL L. BURACK
BARRY E. CARTER
RICHARD W. CASS
BARRY D. CHASE
RAYMOND C. CLEVINGER, III
LOUIS R. COHEN
JAMES R. FARRAND
ROBERT A. GERARD
PAUL D. GEWIRTZ
C. BOYDEN GRAY
RONALD J. GREENE
ROBERT C. HACKER
DAVID G. HANES
ALLEN H. HARRISON, JR.
CHARLES E. HILL
C. LORING JETTON, JR.
SALLY KATZEN
NEIL J. KING
MICHAEL R. KLEIN
JOHN H. KORNS
NOEL ANKETELL KRAMER
F. DAVID LAKE, JR.
WILLIAM T. LAKE
JAY F. LAPIN
ROBERT B. MCCAW
A. DOUGLAS MELAMED
DAVID E. MENOZZI
PAUL J. MODE, JR.
ROBERT R. MORRIS
DANIEL D. POLSBY
STEPHEN B. PRESSER
JOHN ROUNSAVILLE, JR.
DANIEL C. SCHWARTZ
THEODORE S. SIMS
DOUGLAS G. THOMPSON, JR.
STEPHEN A. WEISWASSER
ALAN S. WEITZ
VAUGHN C. WILLIAMS
GARY D. WILSON
WALTER T. WINSLOW, JR.

August 27, 1973

Mr. C. Brewster Chapman, Jr.
Assistant Solicitor, Territories
Division of General Law
Department of Interior, Room 6412
C Street between 18th and 19th
Washington, D. C. 20240

Dear Brewster:

Thank you for hosting the first meeting of the Working Committee on Political Status/Legal Issues on August 22, 1973. As we agreed, this letter is intended to summarize our meeting. Where appropriate, I have also tried to define more clearly some of the issues or questions which we believe should be explored by the Committee.

I am glad that we reached general agreement on the agenda for the Committee. As I recall our discussion, the items for future consideration by the Committee include the following:

1. U.S. citizenship and nationality.
2. Application of certain "important" federal laws to the Marianas in their new political status. */
3. The extent of federal authority in the Marianas under Article 4, Section 3, clause 2 of the U.S. Constitution.

*/ It was understood that a Commission or some other group would address at some later point the question of applying the great bulk of remaining federal legislation to the Marianas.

01-05104

4. Refinement of the mutual consent provision in the Joint Communique.
 - a. What provisions of the status agreement are "fundamental"?
 - b. How will mutual consent be expressed?
5. The applicability of Constitutional provisions including the privileges and immunities clause.
 - a. To what extent should the provisions apply to actions by the U.S. Government?
 - b. To what extent should the provisions apply to actions by the Marianas Government?
6. Extension of the federal court system to the Marianas and its relationship to local courts.
7. Preparation of possible review provisions for the status agreement (e.g., five-year formal review).

As for setting priorities for the Committee's immediate work, it was decided that items 1 through 3 were most important. The other items would be addressed roughly in their numerical order.

In connection with each of the three priority areas, I believe we had a very useful preliminary exchange of views. We also agreed on some work assignments in preparation for the next meeting of the Committee. I believe these discussions and assignments can be summarized as follows:

1. U.S. Citizenship and Nationality

After reflecting on the following issues (among others), it was agreed that the U.S. representatives will draft a provision for discussion at the next meeting.

- a. Should U.S. citizenship be automatic unless an individual takes affirmative steps to avoid it or should the individual be required to take some step (e.g., an oath) to become a U.S. citizen?

- b. For those who initially become U.S. nationals, might any residency requirement outside of the Marianas to

attain U.S. citizenship be eliminated by including the Marianas in the jurisdiction of a federal district court?

c. What would be the requirements for attaining nationality or citizenship for non-Marianas citizens who resided in the Marianas at the time of the new political status? For those who subsequently moved to the Marianas?

2. Applicability of U.S. Laws

We agreed that it would be useful for the Department of Justice to use its computer records of U.S. statutes to determine:

a. What U.S. laws are presently applicable to the Trust Territory of the Pacific Islands.

b. What U.S. laws are presently applicable to the Commonwealth of Puerto Rico and/or U.S. territories.

Using this list the Marianas side will then be responsible for indicating very tentatively which laws the Marianas will want to apply in their new political status. The United States representatives will review the list for the same purpose from the United States perspective. Important laws which either are to apply or not apply will be carefully studied.

3. The Extent of Federal Authority in the Marianas under Article 4, Section 3, Clause 2

Although we did not decide on any particular approach to this agenda item, I believe that our discussion on this subject served to highlight its complexity and importance. As we indicated during the meeting, we believe that it might be useful for the Committee to consider the following as a future approach for its work: Starting with the benchmark of the extent of federal authority in the states, the Marianas side would attempt to identify areas of federal legislative authority in the states that should not extend to the Marianas. The United States side would be expected to indicate areas of federal authority not possessed by the United States with respect to the states which should pertain in the Marianas. Once we have the lists of U.S. laws referred to under agenda item 2 above, I suggest that we discuss the utility of this or some other general approach toward this agenda item.

The next meeting is scheduled for Tuesday, September 11, at 9:30 a.m. in your office. It is expected that assignments agreed to above will be completed by then.

I hope that this summary of the results of our meeting is generally accurate and otherwise acceptable. If you have any changes to suggest, could you either call me or, alternatively, make what corrections you think appropriate and return the copy to me?

Sincerely,

Howard P. Willens

Howard P. Willens