

MEMORANDUM FOR THE MARIANAS FILE

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Subject: Meeting with Jim Wilson, October 25, 1973

At Jim Wilson's suggestion, we met today for lunch. Although he did not say so, it appeared to me that the suggestion of a discussion was probably made as a result of conversations in San Francisco between Chairman Pangelinan and Ambassador Williams. Neither the discussion nor the lunch was a very good one, but this memorandum will attempt to summarize the topics which Mr. Wilson and I covered.

- (1) Early in the conversation I expressed my concern about the limited time available for the next round of formal negotiations. I emphasized to Mr. Wilson that we should make every effort to use the 10 or 11 working days most productively and that this could perhaps best be achieved with preliminary discussions regarding specific items to be placed on the agenda. I also stated that it would be advisable to avoid surprises to the extent possible and exchange views about those particular agenda items where agreement is possible and those where specific agreements might have to be postponed until another time. Mr. Wilson recognized that the closing date of December 19-20 had to be regarded as firm because of travel difficulties, but seemed very optimistic that the December 6 beginning date could be regarded as reasonably secure. (In this connection, we had a brief discussion of the plans for the Joint Committee's sessions. He anticipates that, after the matter of public lands is put to rest by the revelation of the long overdue U.S. proposal, those negotiations will turn into a drafting session; based upon past experience, he does not believe that the members of the drafting team will be able to last more than 3 weeks). Mr. Wilson was generally receptive to my suggestions regarding efforts to plan the Agenda for our negotiations and indicated that it might be possible for the Ambassador to meet with Chairman Pangelinan and me, plus other members of the Marianas Commission, in Washington next month to consider this matter before the November 10 starting date of the Joint Committee negotiations.

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- (2) Mr. Wilson is rather imprecise about what he expects to accomplish at the next session. On the one hand, he does speak of undertaking to reach agreement on all major matters of substance at the next session and, indeed, suggests that this might be a requirement before the United States will approach Congress for financing of Phase I planning. At the same time, however, he recognizes that certain matters may be discussed at the next session, of substance, upon which agreement may not be possible. During the course of our meeting, for example, I outlined our current thinking on the Section IV (3) (2) problem and Mr. Wilson recognized that this might be an issue on which the United States could not make any commitments until they had had sufficient time to study it and consult with Congress about any such proposal. He appears to be anxious to begin the actual drafting of the Status Agreement, although he stated that it was unlikely that Herman Marcuse would come out to the negotiations this time with a draft agreement in his pocket. I expressed my views that it would be unlikely that we could reach agreement on all major matters at the next session, especially since the United States had not seen fit to undertake any consultation with us during this recess on the subject of the U.S. military proposals for Tinian and Saipan. Mr. Wilson acknowledged that this was unfortunate but that it had been necessary because of the difficulties and time involved in undertaking the necessary planning on Tinian.
- 3) On the subject of political status, Mr. Wilson seemed aware of the fact that we were preparing a major paper for the client on the subject of Article IV (3) (2) and self-government. He reiterated the familiar refrain of the Congressional insistence about "plenary" power under this provision of the Constitution. He also indicated that the burden was on the Marianas to identify those areas where they were concerned about arbitrary United States action.

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I responded by emphasizing our effort to avoid the ambiguity in the Puerto Rican example by delineating clearly the authority possessed by the United States and the Marianas Commonwealth. I described the proposal generally and asked Mr. Wilson whether he thought there were any particular powers needed by the Federal Government over and above those possessed by the Federal Government in the States. He said he could not think of any. I said that if such additional powers were identified, then I expected that the Commission would be receptive to considering making express provision for them. Mr. Wilson seemed to agree that this matter could be appropriately put on the table during the next session, discussed by the parties to the negotiation, and assigned for further discussion to a technical group.

Also in this general area, Mr. Wilson agreed that those matters which have been fruitfully discussed in the working group of lawyers could be placed on the agenda for the next round. I told him where we stood on the citizenship issue and he seemed interested in having this matter discussed at the next session in the hope of firming up some specific agreement on the subject. I said that we would also be presenting to the working group soon our position on applicability of the income tax and customs laws and that perhaps this also could be included on the December agenda.

I casually expressed our view that the computer printout of laws applicable to the TTPI, etc., were less than completely useful. He seemed to have heard this comment previously, presumably from one of his own staff. He also was aware that the Guam Commission precedent was not a totally satisfactory one since Congress never acted on its recommendations and I suggested that we might have to undertake some of this Commission-type work prior to any omnibus legislation. This thought did not disturb his digestive process, although he still seems to believe that the exercise is a fairly simple one of identifying only "those important pieces of legislation" which need be dealt with expressly in the Status Agreement. I said we hoped to discuss this in

the next working group and perhaps work up a common approach to this problem with those on the United States side who had this responsibility.

- (4) On the subject of economics, both Mr. Wilson and I were aware of the luncheon meeting yesterday between Mr. Silver and Mr. Leonard. Mr. Leonard had reported to me that Mr. Silver was preparing a "package" of tentative positions for the United States covering all aspects of the economic/financial support area. I raised with Mr. Wilson whether it would be possible to consider the Phase I financing problem separately. He waffled on this, but I think his basic position is negative. At the very least, I think the United States delegation wants to see some discussion, and tentative agreement, regarding those aspects of Phase II which can be reasonably related to the Phase I planning effort. The only specific aspect of Phase II which he referred to was the general problem of goals and standards for the Marianas' economy in the future, which we have generally conceded did bear a rational relationship to the planning effort we are proposing. When I expressed my disappointment that the current request for a supplemental apportionment does not include any provision for funding of Phase I, Mr. Wilson said that his side has concluded that they cannot go to Congress for money without being able at the same time to indicate the overall contours of the deal being made and the magnitude of the long range financial support which Congress will be asked to make.

In response to this comment, I suggested to Mr. Wilson that this position might well mean that there would be no Phase I for at least a year and, possibly, two years. I tried to get Mr. Wilson to be more specific as to the quid pro quo which would be acceptable to the United States on the basis of which they would go to Congress for funding. Mr. Wilson recognizes the problems here, since he is well aware that we are in no position to agree to the price of the Tinian base or, indeed, the level of long-term financial support needed at this time. I

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tried to encourage him to think of more sharply defined agreements that might be acceptable to him and serve their purposes in Congress, and this is clearly something on which we have to work further. I dropped a warning note to Mr. Wilson that, if the Commission perceives this withholding by the United States on its commitment to fund Phase I until all aspects of the agreement have been finally resolved, it might be a serious deterrent to making progress at the next round.

- (5) On the subject of public lands, Mr. Wilson stated that we would get a copy of the United States position as soon as it is submitted to the Joint Committee. He expects that this will be done during the week of November 5. Apparently the U.S. position tried to address certain economical and administrative problems but essentially is little more than a reiteration of the promise to return public lands as soon as individual districts figure out appropriate mechanisms to bring this about. I told Mr. Wilson that we had done substantial work regarding the use of a public corporation for this purpose and his response was that this should present no problem. I got the definite impression, however, that he does not know exactly what a public corporation is or how it might be used in this context to advance the interests of both the Marianas and the United States. I also had the impression that the United States is doing really little more than throwing the ball to the Congress of Micronesia and fully expects the result might be chaos, which might preclude any necessity on the part of the United States to return the lands to the people of Micronesia for some time to come. Mr. Wilson's initial reaction was that this matter should be on the agenda for our negotiations and that any proposal made by our Commission should be discussed by the parties in December.

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With respect to the military proposals, I again stated that I thought it was unfortunate that the next negotiations would begin on this subject exactly where we left off. Mr. Wilson seems to believe that some progress can be made on the sale/lease issue, the Saipan needs, and the dimensions of the Tinian base. I took a pessimistic stance on this subject and reemphasized the importance of the lease question to us, indicating that it was not only of symbolic importance but also provided a mechanism to safeguard certain legal rights that we believed were important. He was not curious as to what I had in mind.

- (6) The United States does want to discuss transition at the next round. I believe they want to do so in part because they had prepared a more detailed position paper than they were able to present at the last round. I expressed some skepticism at the utility of discussing transition, particularly to the extent that it involved specific changes in governmental institutions aimed at giving the Marianas the benefit of their new commonwealth status. I said that I thought that such changes must necessarily wait for the completion of Phase I planning. Mr. Wilson agreed to this. He stated that he has in mind under the rubric of transition the many complicated technical problems involved in drafting and implementing a formal Status Agreement. Apparently he and the United States' lawyers are terribly confused by the several purposes to be served by the formal Status Agreement, the uncertainty as to what the wishes of Congress are in this regard, and the amount of detail that ought to be reflected in the agreement. With a show of bravado, I characterized these as technical lawyers' problems which might be identified at the next round, but should be promptly assigned to a joint working group for more detailed consideration after the next formal session. I think Mr. Wilson agrees with this but I am not sure.

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- (7) I told Mr. Wilson that I hoped that we could have one, and perhaps two, meetings of the joint working group of lawyers before our negotiations begin and that I thought that another session of the joint group on economics might be useful. We agreed to talk during the week of November 5 to set up a meeting with the Ambassador and Chairman Pangelinan to consider some of the above problems.

H. P. Willens

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