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4/18/74

MEMORANDUM

SUBJECT: Mariana Islands: United States District Court for the District of the Mariana Islands; Status Agreement Provisions.

The Joint Communique issued following the negotiating sessions held from May 15 to June 4, 1973, evidences agreement that a United States District Court be established in the Marianas; that such court have jurisdiction at least equal to that of a federal district court in a State; that the Marianas retain the right to establish local courts to decide cases arising under local law; and that such local courts be compatible with the federal court system and consistent with applicable federal law. (Joint Communique, ¶ 6.)

This Memorandum discusses those aspects of the establishment of a United States District Court in the Marianas that should be explicitly dealt with in the Status Agreement. Specifically, the Memorandum focuses on the following subjects: jurisdiction; appointment, tenure and compensation of judges; relationship of the federal court to the local courts of the Marianas; constitutional status of the court; certain miscellaneous provisions that should be included in the Status Agreement; and the appropriate manner to implement our recommendations with respect to the above matters.

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The Memorandum begins with a discussion of the authority of Congress to establish a federal court in the Marianas. The next section discusses other federal district courts which might serve as analogies for the establishment of a District Court in the Marianas. In this connection, we studied the district courts in the 50 States, in the District of Columbia, in the Commonwealth of Puerto Rico, and in the Territories of Guam and the Virgin Islands.^{*/} There follows a section which presents a discussion of our recommendations as to the provisions that should be included in the Status Agreement governing the establishment of a Marianas District Court. Finally, the Memorandum discusses the relationship between our recommendations and the proposals contained in the United States Working Draft of December, 1973.

^{*/} There is also a United States District Court in the Canal Zone. However, since the political status of the Canal Zone, essentially a federal reservation, is so markedly different from the status to be achieved by the Marianas, we do not consider that court a useful analogy and include no discussion of it herein.