

April 30, 1974

MEMORANDUM FOR THE MARIANAS POLITICAL STATUS COMMISSION FILE

SUBJECT: Meeting of the Lawyers' Working Group

A meeting of the lawyers' working group was held on April 26, 1974 in the offices of Wilmer, Cutler and Pickering. Present for the Marianas' side were Howard Willens, Noel Kramer, Robert Kelley and Michael Helfer. Present for the United States' side were C. Brewster Chapman, Adrian DeGraffenreid, Herman Marcuse, and Thomas Johnson. The meeting lasted approximately two hours. The following is a summary of the matters discussed at the meeting.

Approaches to Drafting the Status Agreement: Mr. Chapman said that he thought that one of the important issues at the next round of negotiations should be the manner in which the status agreement will be drafted. He noted that the United States had presented its version of a status agreement--the Covenant Establishing a Political Union between the Northern Mariana Islands and the United States. Mr. DeGraffenreid said that the Ambassador thought it desirable to begin drafting the status agreement at the upcoming round. Mr. Willens noted that the Commission had made no official response to the United States with respect to the Covenant. He said that Marianas' counsel had been working on a version of a status agreement, and would present it to the United States early in the next round of negotiations, assuming the MPSC approved. Mr. Willens said that he anticipated that there could be some fruitful discussion of the difference in our approach as compared to the approach of the United States during the later parts of the upcoming negotiations. But he expressed his doubt that the parties could engage in drafting portions of the status agreement during this round. He thought that the parties should continue using the joint communique approach, and direct the lawyers' working group to do intensive drafting work on the status agreement between the next round and the one which will follow. Mr. Willens expressed the hope that the round after this could be the last.

Separate Administration: Mr. Chapman asked what the Commission's view was with respect to a separate administration, and whether counsel had drafted any documents

for accomplishing a separate administration. Mr. Willens replied that counsel had not done any drafting, and that this would have to be a matter to be discussed at the next round of negotiations. He said that it was possible that an amendment to the Secretarial Order removing the Marianas from the control of the Congress of Micronesia at least with respect to political status matters might be a most desirable solution. He said that his view was that the Commission did not want to achieve any important substantive goals by an amendment to the Secretarial Order.

Taxation and Customs: Mr. Chapman and Mr. DeGraffenreid presented two amendments to the U.S. draft covenant dealing with the applicability of the United States income taxation (attached). They explained that the new versions, which appear to make the United States Internal Revenue Code applicable in the Marianas as a domestic income tax after ten years, were prompted by opposition in the Congress to the previous tentative agreement. Mr. Willens replied that counsel had no authority to discuss this matter in view of the fact that there had been a tentative agreement between the United States and the Commission. He said that if the United States wished to pursue it, it should attempt to make this an issue for discussion at the next round of negotiations. With respect to customs, Mr. Chapman said that they had reviewed the issue whether the Marianas should be treated differently than other territories with respect to the proportion of value which must be added within a territory in order to obtain favorable customs treatment when goods are transferred to the United States. He said that the United States had considerable difficulties in justifying different treatment for the Marianas than other territories.

Immigration: A short discussion of immigration was held. Mr. Willens stated that a position would be prepared by the time the negotiations began, and it would be presented to the United States upon the MPSC's approval. Mr. Willens asked whether the United States had explored with the Immigration and Naturalization Service the Commission's proposal that residence in the Marianas be considered residence in the United States or a State for naturalization purposes only for persons who are closely related to permanent residents of the Marianas. Mr. DeGraffenreid said that they had not done any work on this matter because they understood that Marianas' counsel were to pursue it further. He said, however, that he would

attempt to get the views of the INS before the next round. Mr. Chapman said he did not believe the United States would be troubled by that provision, assuming all constitutional questions were answered.

Other Issues: Mr. Helfer stated that work had also been done on the application of the maritime laws to the Marianas. Mr. Chapman stated that an exemption from the Jones Act requirement of shipping on American bottoms could probably be made available. Mr. Marcuse presented a revised draft of a portion of the U.S. draft covenant dealing with citizenship (attached). In addition, a brief discussion was had of the following issues, all of which will be treated in the draft of the status agreement which the Marianas' counsel have prepared: areas of agreement which cannot be altered without mutual consent; interim formula for the applicability of federal laws; United States judicial authority within the Marianas.

Michael S. Helfer

Attachments

cc: Howard P. Willens
Noel A. Kramer
/Robert K. Kelley

Section 403

(c) The laws of the United States applicable in the Territory of Guam (as well as in the several states) in the same manner and to the same extent those laws are of general applicability: provided that the internal revenue laws of the United States shall ^{not} become [so] applicable ^{until} [only] ten years after the establishment of the Commonwealth. During the interim period the Marianan Government will enact internal revenue legislation as provided for in Section 601.

ARTICLE VI

Financial Provisions

Section 601. The Government of the United States will undertake in cooperation with the Marianan Commonwealth such measures as will facilitate the achievement of economic self-sufficiency and higher standards of living for the people of the Marianan Commonwealth. To this end the United States will provide financial support to the Marianan Government in the form of assistance for budgetary support and economic development as set forth in Section 602, below. For its part, the Marianan Government will enact during the interim period provided for in Section 403(c) non-discriminatory comprehensive internal revenue laws, under which the people of the Marianas will assume an increasing local tax burden, consistent with the stages of their economic development. These laws will include individual and corporate income taxes, as well as estate and gift taxes, all of which will be progressive and will reflect local conditions.

0.5.2.26

Section 201

(c) All persons domiciled in the Mariana Islands on the day preceding the effective date of this section who, although not citizens of the Trust Territory of the Pacific Islands, do not owe allegiance to any foreign state, and who have been domiciled continuously in the Mariana Islands District for at least five years; ^N no domicile established after January 1, 1974 shall count for the purposes of this subsection.

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