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EEArcher:5-6-74

BRIEFING MEMORANDUM

Subject: Marianas IV: What to do if the talks deadlock

The Joint Communique published after the third round of Marianas Political Status Negotiations pointed to some unresolved issues between the U.S. and Mariana Islands which could possibly prevent an early agreement on the shape of a future arrangement between the United States and the Marianas. These and other possible issues are:

1. language of a final agreement especially those powers included in the "mutual consent provisions";
2. immigration and rights of aliens in the Marianas;
3. applicability of federal laws in the Marianas especially those concerned with taxation, customs and environment;
4. purchase of lands by the United States for military use with special emphasis to the right of the United States to eminent domain;
5. moratorium on Tinian.

Assuming that the Marianas do not remain committed to the Commonwealth option, deadlock on one or several of these problems means that we have no choice but to report to the President and seek instructions. What we recommend to the President depends largely on which issue causes the talks to collapse. If it is land, then we may have to continue the Trusteeship in spite of the political flak as we cannot compromise on land to the point where DOD requirements are not met. If it is not land and they would be willing to make land available, then we could recommend a solution that rejoins the Marianas to the other districts in a compact of free association. If the Marianas remain committed to the commonwealth option then we may wish to exercise some of the contingencies listed below.

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1. DEADLOCK is most likely on the need to purchase rather than lease military land.

Possible Action

(a) Ambassador Williams may wish to offer a "Fort Lewis" formula, suggesting that the military purchase ~~of~~ the land but with the proviso that it will revert to the former owners if not used. Perhaps, but not recommended, a formula which determined what constitutes minimum use could be established wherein procedures for the land reversion would begin when military use fell below an agreed level.

(b) The Ambassador could request that this issue be tabled and taken up after agreement has been reached on all other issues.

2. DEADLOCK is likely to occur on the extent of the mutual consent provision of the final agreement. Mutual consent provisions are double edged and limits both the powers of the U.S. and the Marianas. Issues such as eminent domain, right to suspend habeus corpus, and freedom of the seas defined in a mutual consent clause would be unacceptable.

Possible Action

Any proposal by the MPSC to use the mutual consent provision for issues other than the amendment of the agreement should be sidestepped or referred to a joint staff legal committee for their recommendations.

3. DEADLOCK may occur over the level of U.S. financial assistance to the Marianas.

Possible Action

(a) We should assure the Marianas that in joining the American family we will not abandon them. However, we could attempt to negotiate a downward sliding schedule for assistance which is weighted heavily in the first few years of commonwealth status, but which maintains the same gross assistance figures over the five year period.

(b) An alternate method of handling this question is to refer the matter to a committee of economic experts for their recommendation. This would not only delay the problem but also provide expert opinion to present to the U.S. Congress if the committee recommends an increase in the overall level of assistance.

4. DEADLOCK may occur over the question of which federal laws will be applicable to the Marianas including those involving tax and other revenue raising powers.

Possible Action

As the status agreement would envisage the maximum amount of self-government for the Marianas consistent with U.S. sovereignty and U.S. control over Defense and Foreign Affairs, agreement can be given to most exceptions to the applicability of federal laws in the Marianas as long as mutual consent is not involved and U.S. sovereignty is recognized.

5. DEADLOCK may occur over the question of the economic moratorium on Tinian.

Possible Action

We could request the Marianas District Legislature to pass legislation ending the moratorium on the development of private lands on the island of Tinian as DOD is proposing to confine its use of Tinian mostly to public lands presently under U.S. Government control.

6. DEADLOCK may occur on the question of immigration of third country nationals to the Marianas.

Possible Action

Although this question can be solved by permitting the Marianas to enact their own immigration laws without sacrificing U.S. authority in the field of immigration, (see 4 above), Marianas control over immigration can be established

within existing laws by having labor certification for immigration to the Marianas come from the Marianas rather than the Department of Labor.

CONCLUSION

It is understood that both delegations have the option to end discussions and seek further instructions. However, since the goal of these meetings is to reach an agreement, exercising this option may be counterproductive. Instead wherever possible divisive issues may be referred to a committee for expert consideration or simply tabled.

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