

Tim Leonard
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July 30, 1974

MEMORANDUM FOR DAVID HANES

Subject: Customs and Excise Taxes in the Marianas

No
Attached for your information are Sections 607-611 of the status agreement ("Commonwealth Agreement") prepared on behalf of the MPSC. Also attached are Sections 501 and 502 of the status agreement ("Covenant") prepared on behalf of the United States. (The United States has recently proposed in addition that Article I, Section 9, Clause 5 of the Constitution of the United States (prohibiting the federal government from imposing a tax or duty on articles exported from any state) apply to the Marianas as if it were a state.)

We anticipate that the Joint Drafting Committee will discuss customs and excise taxes sometime during the week beginning August 5, although this item may be postponed until later in August.

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Your views on the following questions would be most helpful. What are the differences between the two proposals worth fighting about? Assuming that the provisions of the status agreement relating to customs and excise taxes are not subject to mutual consent, is there a reason to be as specific as our draft is? Is it desirable or undesirable to have the provisions relating to customs and excise taxes come into effect before termination of the Trusteeship (estimated to be 1981)?

Michael S. Helfer

cc: Howard P. Willens
(without attachments)

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Section 605.

The Commonwealth of the Mariana Islands shall have exclusive authority to enact, amend or repeal its internal revenue laws; provided, however, that the Commonwealth shall enact no law which a State would not have the power to enact imposing any tax or levy upon the property of the United States or of the Government of the Trust Territory of the Pacific Islands.

Section 606.

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All bonds issued by or on behalf of the Commonwealth of the Mariana Islands shall be exempt, as to principal and interest, from taxation by the United States or by any State, territory, possession, the Commonwealth of Puerto Rico, the District of Columbia, or any political subdivision thereof.

Section 607.

The Commonwealth of the Mariana Islands shall not be included within the customs territory of the United States. The Commonwealth of the Mariana Islands shall have exclusive authority to enact laws providing for customs duties on ^{any} imports into the Commonwealth ~~from~~ ~~foreign countries~~, provided that this authority shall not

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be exercised in a manner inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade ("GATT").

Section 608.

Exports from the Commonwealth of the Mariana Islands shall enter the customs territory of the United States free of any import duty; provided, however, that if more than 50 percent of the value of a product is derived from foreign materials, such product shall not be considered an "export from the Commonwealth of the Mariana Islands" for purposes of this Section. The United States shall, if necessary in order to carry out this agreement, endeavor to obtain a special exemption to the GATT.

Section 609.

The United States shall seek to obtain from foreign countries favorable treatment for exports from the Commonwealth of the Mariana Islands. In particular, the United States shall encourage other countries to consider the Commonwealth of the Mariana Islands a "developing territory" within the meaning of the June 25, 1971 GATT waiver regarding preferential tariff treatment for goods from developing countries and territories.

Section 610.

The Commonwealth of the Mariana Islands shall have the exclusive authority to impose duties on exports from its territory.

Section 611.

The Commonwealth of the Mariana Islands shall have the exclusive authority to impose excise taxes upon goods manufactured or sold in the Commonwealth and upon goods imported into the Commonwealth; provided that such excise taxes as are imposed on goods imported into the Commonwealth shall be consistent with the international obligations of the United States.

Section 612.

There shall be paid into the Treasury of the Commonwealth, to be expended for the benefit of the people as the Government of the Commonwealth may by law prescribe, all federal revenue (other than sums collected by the United States in accordance with Section 604) derived from the Commonwealth, including: (a) the proceeds of all taxes or other levies collected under the internal revenue laws of the United States on articles produced in the Commonwealth and transported to the United States, its territories, or possessions; (b) the proceeds of any other taxes which may, consistent with this Commonwealth Agreement, be levied by the Congress on the inhabitants of the Commonwealth of the Mariana Islands; (c) all federal quarantine, passport, immigration, and naturalization

Article
Revenue and Taxation Provisions

Section 501. Imports from the Commonwealth into the customs territory of the United States will be subject to the same treatment as those from the Territory of Guam.

Section 502. The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into the Commonwealth from any area other than the United States, its territories or possessions.

Section 503. The Government of the Northern Mariana Islands will:

(a) Enact no law imposing any tax or levies upon property of the United States or property of the Government of the Trust Territory of the Pacific Islands;

(b) Authorize no public indebtedness in excess of ten percentum of the aggregate tax valuation of the real property in the Commonwealth. Bonds or other obligations of the Government of the Northern Mariana Islands payable solely from revenues derived from any public improvement or undertaking will not be considered public indebtedness of the Government of the Northern Mariana Islands within the meaning of this provision.

Section 504. All bonds issued by the Commonwealth or by its authority will be exempt, as to principal and interest, from taxation by the Government of the United States or by the

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