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ITEMS IN MARIANAS STATUS TALKS ON WHICH CONGRESSIONAL STAFF VIEWS
WOULD BE APPRECIATED

A. Local Self-Government

1. The future Marianas Commonwealth would be established under a locally adopted constitution. This would include a bill of rights and provide for the separation of powers, a popularly elected chief executive and local courts on the Guam pattern in addition to a federal court. The Marianas constitution would be submitted for approval by the United States on grounds of consistency with the relevant provisions of the United States constitution, legislation establishing the commonwealth arrangement and any other relevant federal legislation. Marianas constitutional amendments would not require approval by the federal government although federal courts would be competent to pass on the consistency of such amendments with relevant provisions of the United States Constitution and of federal law.

In this regard, the following issues of Congressional concern are currently under discussion:

-- Whether approval of the Constitution by the United States should be by Congress or the President (if the U.S. Congress doesn't approve the Constitution within a thirty day period).

-- Whether the Constitution should be submitted for U.S. approval at the same time as approval of the status agreement.

-- Whether the authority of the local government should extend to all matters of "local application" or to all matters of "rightful ~~concerns~~" of legislation (old or new Virgin Islands formula).

-- Whether the Marianas may follow the U.S. Congressional bicameral example with a Senate that does not have membership based strictly on population.

2. It was agreed during the third session of the status talks that the U.S. would exercise full sovereignty over the Marianas and hold full plenary powers. It was also agreed that certain specifically designated provisions of the new agreement designed to assure maximum self-government for the future Commonwealth of the Marianas would not be amended or repealed except by mutual consent of the parties. To this extent the exercise of United States plenary authority in the Marianas would be voluntarily limited. The Status Agreement would be drafted so as to reflect clearly the intention of the United States and the Marianas Political Status Commission that this undertaking be enforceable in the federal courts.

The following specific provisions are under discussion for possible inclusion in such a mutual consent limitation:

-- The basic commonwealth relationship between the U.S. and the Marianas.

-- The right of Marianas citizens to become U.S. citizens or to select U.S. national status in lieu of U.S. citizenship anytime within six months after the end of the trusteeship.

-- The right of the Marianas to adopt a locally drafted constitution and to amend it without specific U.S. approval so long as it is compatible with the status agreement approved by Congress and U.S. law (as interpreted by U.S. courts).

-- The right of the Marianas to establish and maintain local courts.

-- The application of only certain specified provisions of the U.S. Constitution to the Marianas.

-- The ability of the Marianas to prohibit the alienation of local land to persons not of Marianas ancestry.

-- Specified safeguards attached to the exercise of federal powers of eminent domain.

-- The initial five year U.S. financial commitment.

-- Representatives of the Marianas have further suggested that the U.S. Congress not extend federal legislation specifically to the Marianas if such legislation does not also apply generally to the states and unless the Marianas are not included by name and there is no "national interest" involved.

B. Applicability of Federal Laws

1. Federal Laws to be applied to the new territory.

The parties have agreed to look for a general formula to cover the interim application of existing federal laws to the future Commonwealth of the Marianas. Such a formula would have to be consistent with other provisions of the Status Agreement now being negotiated and should take into account the body of federal legislation presently applicable to the Trust Territory. The U.S. suggested the same federal laws that apply to Guam apply to the Northern Marianas, though specific exceptions might be necessary to cover special circumstances. At an appropriate time after the Status Agreement is signed, a Joint Commission would undertake a detailed study of relevant federal legislation and make specific recommendations to the United States Congress for a permanent arrangement on the applicability of such legislation in the Marianas.

With regard to the suggested interim formula the following issues are being examined:

(1) Whether or not the following laws applicable to Guam should be inapplicable to the Northern Marianas.

- (a) Jones Act on intercoastal shipping.
- (b) Fair Labor Standards Act minimum wage provisions.
- (c) Requirements in U.S. Banking acts that local banks joint the federal reserve system and be subject to its auditing, loan reserve levels and cash on hand requirements.
- (d) The U.S. Internal Revenue Code.

(2) Whether or not the following laws inapplicable to Guam should be applied to the Northern Marianas.

(a) Social Security Titles 1, 10, 14 and 16 (Marianas representatives also propose that the Marianas share of TTPI Social Security funds be phased into U.S. fund and that Marianas employees salary deductions and contribution be limited to 1% each the first year and increased by 1% a year until it matches U.S. deduction requirement of 5% each).

(b) Federal Crop Insurance Act to protect against typhoon damage to local crops.

(c) Consolidated Farmers Home Administration Act.

(d) Public Health Service Statutes for U.S. grants for hospital construction and preventative medical programs.

2. Provisions of the U.S. Constitution to be applied to the Northern Marianas.

It has been agreed that Article IV Section 2, Clause 1 of the United States Constitution relating to "privileges and immunities" would apply in the Marianas, subject to appropriate limitation in the formal status agreement to assure that the ability of the future Marianas Government to preserve control of the land of the Marianas in the hands of Marianas citizens will not be compromised. Citizens of the Marianas as U.S. citizens would be entitled to all privileges and immunities of citizens in the several states.

Article IV, Section 1 of the United States Constitution relating to "full faith and credit" would apply with respect to the Marianas as if it were a state. The requirements in the United States Constitution of indictment by grand jury and of a jury trial in civil cases need not be made applicable in the Marianas. The Marianas Political Status Commission undertook to study further which additional provisions of the United States Constitution should be made expressly applicable in the Marianas.

Pursuant thereto, the following additional provisions of the U.S. Constitution are now under discussion for possible extension to the Marianas.

- Article I §9 c. 2, 3, 5, 6
- Article I §10 cl. 1, 3
- Article VI
- Amendments 1-4
- Amendment 5
- Amendments 6, 7
- Amendments 8, 9, 13, 14&5
- Amendments 15, 19, 26.
- Amendment 27 (if adopted by the states).

C. Washington Representative

Recognizing that the question of Marianas representation in the United States Congress is ultimately a matter for decision by that body, the United States delegation agreed to support a request by the Marianas for its own non-voting delegate in Congress. The parties agreed to explore a common approach to the United States Congress on this subject. Informal soundings in the House on this subject have been negative thus far.

In this regard, the following issues are now being discussed:

-- Whether this subject should be made part of status agreement or left entirely to the Congress.

-- Whether Guam's representative could also represent the Marianas Commonwealth in the U.S. Congress.

-- Whether the U.S. Congress would agree to give the Marianas a non-voting delegate when the local population equals 50,000 per the Virgin Islands precedent.

D. Financial Support

The two delegations tentatively agreed on an initial 7-year program of U.S. financial assistance to begin following the installation of a new Government of the Northern Marianas in accordance with a popularly approved constitution. This could be as early as July 1976. Under this tentative agreement the U.S. will provide \$13.5 million for each of these years in direct financial grants as follows: a grant of \$8 million a year to help meet the cost of government operations; a grant of \$1.5 million a year to the future Government of the Northern Marianas to be used for economic development loans, with \$500 thousand a year of this amount to be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives; and a grant of \$4 million a year for Capital Improvement Projects of which at the Marianas Political Status Commission request \$500 thousand a year will be reserved for Rota and \$500 thousand a year for Tinian because of the urgent development needs on those islands. U.S. assistance will be provided in constant 1975 dollars.

In addition, a wide range of services and assistance under regular U.S. federal programs will be available. The United States estimates the value of federal services and assistance at \$3 million a year. The total direct annual assistance is thus estimated at \$16.5 million.

In these matters the following issues are being addressed:

- Whether there should be a commitment for U.S. to continue funds beyond first periodic review (at first seven years).
- Whether there should be a set standard for revising U.S. commitment for federal assistance.
- Whether Marianas should be permitted to use its federal monies for Marianas contribution for "matching funds" required under some federal programs.
- Whether the U.S. Congress will be willing to provide a multi-year appropriation vice an annual appropriation.
- Whether Phase II funds are part of status agreement and could not be changed once the status agreement is ratified by the U.S. Congress.

E. Approval Process

The following issues are being addressed:

- Whether the U.S. Congress would consider the status agreement and the Marianas constitution simultaneously.
- Whether it would be advisable to insert a clause to the effect that if USC did not act within thirty days, then the President would be authorized to approve the agreement.