

*working file
Political/Legal*

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January 24, 1974

MEMORANDUM TO H. WILLENS

Re: Fishing in the Marianas

Attached are the documents I requested from the Bureau of Customs concerning the reasons for the exemption of American Samoa from the prohibitions against foreign-flag vessels landing their fish at U. S. ports. The basis of the decision is that American Samoa is not organized and is not incorporated and is therefore not a U. S. port.

Note that the Customs Bureau position is that the prohibition does not apply in Guam. This is based on the 1950 Organic Act, which provided that laws passed after it shall not have any effect in Guam unless specifically made applicable there by reference to "Guam" or "possession." According to the Bureau, the prohibition was passed after the Organic Act and does not contain the necessary reference.

I think that the Bureau's decision with respect to Guam (whether right or wrong, a matter I will check), points up the fact that we should approach the Guam formula with caution. There may be a set of laws which we would want to have apply in the Marianas which are not applicable in Guam because of the wording of the 1950 Organic Act.


Michael S. Helfer

xc: R. Kelley (w/attachment)

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DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS
WASHINGTON



JAN 22 1974

REFER TO

VES-7-03:R:CD:C
100969 C

Dear Mr. Helfer:

Reference is made to your letter of January 9, 1974, requesting a copy of the documents embodying the decision of the U.S. Customs Service which permits foreign-flag vessels to land their catches of fish in American Samoa notwithstanding the provisions of title 46, section 251, United States Code.

In accordance with your request there are enclosed copies of Marine Circular No. 124, dated June 12, 1953, and Supplement No. 1, dated November 15, 1955. The above circulars are now cited as Custom Circulars: VES-07-MA, dated as above.

Sincerely yours,

J. P. Tebeau
Director
Carriers, Drawback and Bonds Division

Michael S. Helfer, Esq.
Wilmer, Cutler & Pickering
1666 K Street, N.W.
Washington, D.C. 20006

Enclosures

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