

WORKING SESSION - IV-3-2

H. Williams: The U.S. has no problem with substance of income tax, customs and excise tax papers, but should consider further. Future Government of Marianas should be considering a progressive income tax structure appropriate to development circumstances.

As to customs excise taxes, we have responded point by point, but we also should consider further.

Citizenship has been discussed at lawyers' working level and have tentatively reached agreement with exception of a lead-in clause to 105 (a) and provisions of section (d).

H. Marcuse: I would like to give a brief review. Section 105 (a) and its lead-in clause is designed to take care of those not wishing to automatically become U.S. citizens but wish rather U.S. nationals. As revised, there is no particular problem, but we desire further review.!

Section 105 (d) is recognized as a new problem that cannot be settled here. Some provisions have a chilling effect on movement. That has constitutional significance. We must review this section in light of recent Supreme Court decisions.

E. Pangelinan: Commission would like to review proposed technical changes prior to making response.

H. Willens: Can we incorporate the new agreements in the income tax area, and do we expect to return to customs and excise tax areas during this session?

As for Section 105 (d), can there be a continuing dialogue during this session, and can we have benefit of legal research before end of session?

H. Williams: Yes, this is our intent.

We do have some general remarks on your proposal on the limitation of federal authority in the Marianas and the applicability of laws to the Marianas. I would like to have Mr. Wilson make this presentation.

J. Wilson: (Presentation)

We have no quarrel with self government.

As practical and historical matter Congress hasn't interfered in international affairs of territories and doesn't intend to. We can provide more in way of assurances.

Keep in mind:

- Views of Congress
- Federal relations with other territories

Can provide political and legal assurances.

Jim

Blanket limitation could raise questions of "residual sovereignty." We want complete authority with exceptions.

Status

--MPSC Draft Communique - Language will be submitted by consultants to U.S. designee

Willen

Working group will work on formula

4-3-2 Willing to accept U.S. position that:

- (1) 4-3-2- limited by mutual consent
- (2) Status parts of compact subject to requirement
- (3) Agreement will refer to Congressional forbearance

H. Willens:

I would like to note we have not suggested all federal laws be studied as you interpret Paragraph 3. But, we do want to study the effect of general formula approach, i.e., laws now applied to Guam.

J. Wilson:

Still some problem with studying all the federal laws now applicable in Guam. This is a very time consuming proposal if you want to study them before they are applied here.

H. Williams:

There is also a problem with your suggestion on p.2, that the problem of application of laws be resolved before status agreement signed.

H. Willens:

Our change in view is to make sure there is no vacuum in federal laws on changes of status; this would also be in the interests of USG.

This is not like Guam/Puerto Rico where U.S. laws were already applied so we must deal with this issue and is why we must deal with a general formula approach as we propose.

H. Williams:

We have no problem with substance of your proposal but perhaps lawyers can get together before we leave Saipan to examine this further.

12/12 P.M.

Transition

Main difference between us is physical planning and this is mainly on training. We agree you need it but don't need it all right now.

What rate of growth do you want?

Leonard on Physical Planning

--Commission is well aware of timing problems.  
--We need to begin planning on day one - at least begin review of what's been done

August 29 paper sets forth schedule of work. We want detailed physical planning at appropriate place in Phase I.

FHW

We think most should be done in Phase II. We don't want to commit money to do detailed planning until review of what has been done completed.

Eddy

\$100,000 for physical planning. How did you get this number?

Haydn

Figuring out cost of planning can be part of our joint effort.

Tenorio

Can you give us assurance that you will seek more money for physical planning if \$300,000 for Education, Social and Physical isn't enough - as you have with Cadastral survey?

Eddy

Legal support for Secretariat? Why omit planning for judiciary and legislature?

Eddy

- (1) We don't want to use TT employees
- (2) Disappointed that U.S. has not responded to papers
- (3) Joint working group seems useless
- (4) No documentation for U.S. members

FHW

You can draw on legal talent from:

--Private counsel  
--MI

Willens

Government Planning

3 major issues:

- (1) Applicability of Federal laws. When is research appropriate on this? Not talking about complete survey.
- (2) Difference in costs assigned for government organization and legislative program \$50,000 v. \$200,000  
\$50,000 will buy a senior lawyer and 6 consultants for a few weeks  
\$200,000 is low and would require full U.S. support
- (3) It's hard to get help from Feds.

12/15

Responses to MPSC's Phase I Paper

Timing

Scope

Budget

Organization - These are the differences between us.

Ad Hoc Committee will come up with draft detailed plan for Phase I.

U.S. will commit itself to finding funds "for the Ad Hoc Committee." We'll need figure in paper this morning.

Timing - Begins on signing of agreement - Plan for Phase I becomes operative on that date.

Physical Planning - Continue to hold to view that something needs to be done first. Give it to Ad Hoc Committee.

Government Planning - Don't agree to full scope of program.

034266

Return of Public Lands

FHW

Private Land Survey

Land Alienation

--See Sec. 402 of covenant

Eddy

Not prepared to commence on this

Eminent Domain

U.S. will have it exercised with restraint.

12/16

Land

Faralon - We want to lease with option to buy at Termination of Trusteeship

Salpan - Lease with option at C-dock. We'll let you have land for harbor

Lease - Back expansion and harbor related activities

Isley - Want to return 500 acres of land south of Isley

Tinian

Faralon - NEPA study? - probably not.

Who would run harbor? Would Army Corps of Engineers be involved?

Land Procedures

We have valid lease now of military-retention land.

We will want to purchase it at end of Trusteeship but no new lease arrangement during interim.

FIRST WORKING SESSION

P. Tenorio: U.S. national status is acceptable to us.

J. Wilson: In the last session in our Joint Communique we agreed that residents of Marianas would have nationality for U.S. citizenship with provisions for some mechanism for "national" option. This was examined in joint lawyers group in light of U.S. Imm/Nat laws.

034267

P. Tenorio: Does U.S. have any preference?

J. Wilson: Best to have all one status but recognize Marianas preferences that individuals be given choice. For convenience on U.S. Imm/Nat laws we prefer U.S. citizenship - this is far easier for U.S. Counsel Service abroad.

Jim We have no substantive disagreement. On style, we think MPSC proposal may be too long, too technical and too detailed. Suggest experts get together to work out details.

MPSC wants both sides to designate persons to begin working on detailed joint communique.

Lawyers will get together on items of disagreement.

J. Cruz: What kind of passports are required for nationals?

J. Wilson: Same passport.

As far as income tax paper is concerned, we are concerned more conceptually here than with citizenship.

Not bothered by the idea that U.S. Federal Income Tax would not apply to Marianas, but are interested in MSC having local internal revenue provisions, especially in regard to local self-sufficiency. We are interested in a "responsible" tax policy by the MSC.

We will be discussing this with our financial proposals and the U.S. conceptual approach.

We are prepared to adopt rebate of Federal Income Tax on non-residents of Marianas as part of U.S. federal assistance to Marianas under new arrangement which in military aspect is some \$4 million alone.

U.S. Congress will look carefully at our proposals, so need to look at your own proposals for self-sufficiency. We should contrast situation here with that of Guam 15 years from now and provide for similarity.

Guam has its own territorial income tax that adopts the U.S. federal rate.

If do not want full scale treatment of U.S. fed tax in the Marianas at this stage of development. So, U.S. won't insist, but we need something like Guam system at end of 15 years.

Given concept of self-sufficiency, we at the same time don't want to create a concept of a "tax haven" here in Marianas.

The U.S. Congress would more likely accept favorable tax treatment for the Marianas at this time given the state of economic development at present time.

H. Willens: Could you discuss exactly what we should do in these areas so as to convince IRS that MSC will undertake its responsibility for self-sufficiency.

Would appreciate more specifically. We haven't undertaken to draft tax statute due to lack of expertise. Even if drafted, can't be sure Marianas legislature would adopt the tax measure as drafted.

J. Wilson: The tax scheme is very technical and is a part of overall plan for economic development. Drafting of a tax law would be part of Phase I - consistent with overall economic development planning.



To get our arrangement through the U.S. Congress, we need some general principles binding on future GOM aliens. These would not have to be too specific, but some type of progressive income tax tied to development of local economy over a number of years. We will have language to suggest.

J. Cruz: What about Marianas ability to tax the U.S. Tinian base concessions?

J. Wilson: Normally, don't permit taxation of U.S. institutions, but Marianas can have excise taxes on goods produced locally. Where a direct instrumentality of U.S. Marianas can't tax but a base concession is outside the concept of a U.S. institution. Or you could tax income earned by the local citizens who run the concessions, but not on all the income produced by the concession itself, however.

Palacios: Goods for individual consumption should be taxed.

J. Wilson: We understand your position, but this is a benefit for military service.

P. Tenorio: We are concerned about how prevent abuse of the PX privileges, i.e., locals buying at PX.

D. Smith:)  
Al Smith:) To prevent locals buying at base PX, we must have cooperation of local law enforcement.

J. Wilson: Don't overlook fact that income earning by local employees at bases can be taxed locally.

D. Muna: Can you tax civilians working at base?

J. Wilson:)  
D. Scott:) Can tax civilian personnel working at base because they can't buy at PX and their income earned is not covered by Soldiers/Sailors relief act exempting military personnel.

B. Manglona: I would like to note that civilians at Guam OICC have commissary privileges.

J. Wilson: Not supposed to happen.

Al Smith: There is an exception for this situation. Under hardship or emergency, the base commander can make temporary exemptions.

V. Pangelinan: If we can convince USG of a local progressive income tax, will USG still be suspicious as regards our willingness to become self-sufficient?

J. Wilson: No reason to think so. USG is sympathetic to idea that U.S. territories in development stage have preferential treatment. However, agreement to extend financial assistance is conditional on convincing the USG that everything possible is being done locally to attain self-sufficiency.

H. Willens: Financial assistance shouldn't be dependent on development economy but rather should recognize that local government should have choice on how to develop their own economy.

V. Pangelinan: If GOM income tax eventually becomes similar to U.S. income tax, could this eliminate exemption of tax on bases?

J. Wilson: No

J. Cruz: What about U.S. civilians purchasing at PX's on U.S. bases in Japan?

J. Wilson: Is different because they are outside the U.S.

H. Willens: I think we will want a detailed Joint Communique to reflect substantive progress we are making. I propose to start to begin to prepare JC now.

U.S. CUSTOMS/EXS TAXES

- Palacios: Need ability to protect local economy -- and to encourage industrial development. U.S. too far advanced. This is the basis of our paper.
- J. Wilson: This is not too different from Guam/Samoa. We should recognize problem of taxation of Guam imports which could result in customs war. Yet I note you can still tax imports via "excise" route.
- P. Tenorio: If U.S. can give preferential treatment for TTPI, why can't U.S. give for Marianas?
- H. Willens: Issue of Customs is one of "even-handedness" among U.S. territories.
- J. Wilson: Yes. U.S. needs to keep a handle on this area due to technical areas of GATT -- dumping, marking, etc.
- H. Willens: I assume this is also the answer to our position #3 in one paper.
- J. Wilson: Yes. You could tax exports to U.S. - no problem with that if you want to. However, your proposal for a 75% limitation on the determination of foreign value for favorable tax treatment of goods imported into U.S. is a difficulty. We cannot envisage U.S. Congress accepting this level.
- E. Pangelinan: Can you share your views?
- J. Wilson: Need only look at Guam, other territories.
- H. Willens: The Commission points out the need to encourage Marianas to have more developed economy and attain "self-sufficiency" by economy, industrial development. This 75% level would provide such an incentive for development.

J. Wilson:

Look at your specific products. We don't think that if Congress would amend the law for all territories to use the 75% value approach that we would have any difficulties. But they haven't done so to date and this is what we must follow. On your position, #5 we have no problem. GATT should grant it.

On excise taxes there is no problem; but, this would not be as a matter of right of the Marianas Government. Rather, as a matter of permissiveness due to U.S. international obligations respecting tax of certain foreign goods. There would also be no tax of federal property.

On the MSC proposal on taxation of goods into U.S., the U.S. would make no distinction regarding U.S. excise taxes, but we would be willing to rebate them to the Marianas Government as we do on Guam.