

U  
DRAFT:AdeGraffenried:10/11/74:mjw

U.S.-MPSC Lawyers Drafting Group

Participants: J.M. Wilson, Jr. H. Willens  
A. de Graffenried M. Helfer  
H. Marcuse  
O.T. Johnson

Date and Time: 11 October 1974 at 1000

JW: Looked MPSC counter version of 602 and Article IV; would be prof. to examine and whatever Howard has on.

HW: ? we going to send out a report; if U.S. feeling a joint draft, we need more bracketing. Don't want to represent all agreeing to something when we don't. But to put U.S. IX, X in brackets and put in MPSC IX, X is to go too far. Prefer to give individual drafting reports to respective principals at this time, continue to work on technical difference. MPSC principal not expect joint report - just work report noting areas of agreement, differences with recommendations.

JW: Kept without draft - waste need draft representative of tentative agreement with that diff. req. resol. by principle.

Don't propose draft tomorrow. Nee recog.

(1) need more technical work, checking, refinement; (2) get guidance from on issues in brackets to permit continuance of work.

Need start point

Get rept. at least representing tentative agreement between parties.

HW: Need time to analyze new U.S. draft.

JW: Need to narrow down to point that it is a major substantive issue to be put in brackets for

HW: That is our goal also shall we proceed on that basis then?

JW: Lets review sentence by sentence with view to get agreement on as much as possible.

HW: How proceed today?

JW: 1st Article I and list of mutual consent terms

HW: 2 alt.

(a) bald, unqualified statement that fundamental provision not changed except mutual consent to leave open for future ? specific provision are subject.

(b) provision regards rights of self-government, relative with U.S.; finance, other \_\_\_\_\_, shall not be changes; a list in 1-2 phases.

We have a draft of specific sections.

JW: Longer the list - more problems. Consider including only those basic fundamentals essential to meet desires of MPSC. U.S. included ones we thought MPSC wanted; is basically narrow list with reference to certain sections of the agreement. e.g., all in Article I.

- basic right to adopt/amend Constitution and of self-government
- citizenship

Thereafter - grey area as to how far to go.

HW: Agree with U.S. on I, II, III; U.S. felt it was too sweeping so their new MPSC list more specific. Problem - if too many items - bother USC or use sweeping language.

JW: Perhaps going to refer to Articles would shorten MPSC list.

Article I, II, III are key elements of the relationship; after this a technical problem of description.

MH: I, II, III are basic which must be subject to consent clause.

JW: Today at MPSC list might as well include all Article I.

MH: Right

JW: Well, lets look this over and give definitive response next session.

HW: OK - we can narrow down will have some bracketed areas - have said that we would drop some of the items out if U.S. could provide legal memo. voting U.S. - e.g. fiances.

JW: Understand

HW: USC not have problem with I, II, III - have reservations e.g. not want to have USC amendment def. of NMI to include Guam could make X subject or leave cross reference.

JW: Note that we are checking our geographical description.

HW: Safeguards are essential to major items so will await U.S. review.

MH: Have agreed. Bring in mutual consent section into the group to become effective on approval.

JW: Right. Next agenda item is new Article IV.

MH: Judicial authority. District Court for more in keeping and prevents confusion as we make later.

JW: No problem; ? is 2 brackets.

MH: U.S. undertake to put judge there, pay salary, expenses.

HM: Isn't it really implied if U.S. provides court.

MH: Perhaps, won't hurt to make clear.

JW: Any problem with having Guam District Attorney, Marshall operate for the Marianas.

MH: This is what we had in mind.

JW: we only need to find the to express this

MH: S402, broke into section; depends on how we resolve grand jury, civil jury issue.

JW: No problem; 403 brings in Title 28 Code but need to check technical items. See you switched from PR to State of Union.

HM: Was necessary for technical purposes.

JW: No real substantive problems so lets move to remove some of the brackets.

HM: (b) problem is whether we can have Marshall execute local laws in Marianas. Issue is his the transition phase, Note in Alaska - full acted as local judge during transition period, upheld in 9th Circuit so good case for federal Marshall could execute local laws.

MH: In Hawaii, Marshall performed these for

JW: In MPSC VI, no chance to examine.

MH: MPSC draft should be 601. U.S. needs to check out with the tax experts; U.S. feels waiting period would be appropriate during which no amendments to the law or consider arrangement where amendments effective after they have lain before both houses of USC for x days after which they become law if no USC action.

HW: We considered these options and rejected them - if the 2 prefer former approach to avoid problem with client. Waiting period shouldn't be any longer than end of trusteeship.

JW: U.S. felt 1 year sufficient.

HW: USC of IRC as territory tax we get into several technical problems, e.g. stateside citizens equal local residents. For instance, sufficient case laws but they differ between VI and Guam. Would encourage MPSC tax man review jointly due to many problems. If Marianas denied prior to and for any time then these technical problems arise.

JW: We recognize technical.

HW: We'll leave up to U.S. on whether to include our tax expert.

JW: We need to check out 1st in house, then we'll contact you.

HM: Some problem with U.S. Corporation doing business in Marianas.

HW: Earlier MPSC memo notes U.S. Corporation are subject to U.S. taxes. We owe U.S. a 602 Federal tax income.

MH: ? no Social Security section.

JW: Social Security problem omit ref. Should have old MPSC section in brackets. U.S. problem - no way with U.S. Social all or nothing if Marianas employees enjoy advantages. Not too big hardship to increase social security payments. ? of - recognize political sensitivity. So suggest we put MPSC section in brackets.

HW: Social Security has 2 alternative - suggest full application but don't suggest time.

JW: Do not feel could give full benefits without full payments.

HW: Bob Myers - father of system feel Social Security Administration position hogwash. Prepared to reconsider full force if Social Security undertake to provide services during interim period.

JW: ? recommendation of HICOM staff on Social Security when address separate administration. AdeG check out.

MH: Not prefer to apply full social security laws due to current Marianas

JW: Social Security would give windfall to Marianas.

HW: Would be most helpful - great help.

MH: Also want to make sure that payments would be credited towards U.S.'s social security payments.

HW: Issue remaining then is when to apply Social Security Administration.

MH: is to take Marianas share in TTPI and merge with U.S. Social Security system.

HW: U.S. level benefits during transition phase?

JW: Yes - full.

MH: Is this an area prod. for to meet with Social Security Administration or is this internal problem?

JW: We'll check 1st.

HW: More hope here than in beginning. Could support full application at end of trusteeship is receive full social security benefits and credits to U.S. system under TTPI contributions will talk with Leonard.

JW: As to import taxes we would fold (c) into sub (b).

MH: Are international obligations of U.S. that limit prior to impose export duties?

OTJ: Not yet but oil sharing and grain agreements on not restricting their exportation under U.S. Constitution - federal government can't impose export duties.

MH: OTJ true.

MH: We'll review U.S. change in 603. In checking against old drafts - only major difference is elimination of the social security section. Also note that 602(d) proposal is of concern.

JW: US did not intend any substantive change. No change until international organization section.

HW: Quick reading on Article IX didn't note U.S. financial support for Marianas Resident Commissioner.

MH: Note Puerto Rico precedent

JW: True, but more recent precedent of VI, Guam say no. USC says pay provision would be to

HW: Article X; no real problems but we'll review.

HW: Any word on principal meeting?

JW: Yes, meeting between the principals in Honolulu just for a few days.

HW: November 15 still set?

JW: Yes, depends.

HW: Recognize that we hope to finish it up at next session. So we'll want to stay with it, recognizing that our side callapses after 3 weeks.

JW: Yes we do recognize.

HW: Next meeting on Friday afternoon?

JW: 2:30?

HW: OK.

DRAFT  
October 11, 1974

07  
4

ARTICLE VI

Revenue and Taxation Provisions

Section 601.

(a) The income tax laws in force in the United States and those which may hereafter be enacted shall be likewise in force in the Northern Mariana Islands as a separate territorial income tax, to be payable to the Government of the Northern Mariana Islands and to be known as the "Northern Mariana Islands Territorial Income Tax".

(b) As used in subsection (a) of this Section the term "income tax laws in force in the United States" includes but is not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this Section: subtitle A (not including Chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75.

(c) In applying the Northern Mariana Islands Territorial Income Tax pursuant to Subsection (a) of this Section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Code of 1954 shall be read so as to substitute "The Northern Mariana Islands" for "the United States", "Governor or his delegate" for "Commissioner of Internal Revenue" and