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Mr. Sam Barnsen  
General Counsel  
Immigration and Naturalization Service  
Washington, D. C. 20537

Dear Mr. Barnsen:

The Office of Legal Counsel is assisting the Office of Micronesian Status Negotiations in the drafting of a Status Agreement with the Northern Mariana Islands pursuant to which these Islands will become a Commonwealth in union with and under the sovereignty of the United States.

Article III of the Agreement (Attachment A) would provide in substance that most persons residing in the Northern Mariana Islands on the day when they join the United States, and all persons thereafter born in those Islands would become citizens of the United States. I understand that these provisions of the Agreement have been cleared with the Service through the Department of State.

The Agreement would further provide that the immigration and nationality laws of the United States would not be automatically extended to the Northern Mariana Islands upon their accession to the United States, but only to the extent and in the manner they are thereafter made applicable by an act of Congress. The reason for that provision is that the indiscriminate application of these laws to those small islands might have unforeseeable and irremediable social and economic effects on them. We understand that Congress is now studying means to control immigration into Guam and the Virgin Islands for similar reasons.

The total inapplicability of the Immigration and Nationality Act to the Northern Mariana Islands, however,

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would leave ~~a vacuum which could result in undesirable~~ consequences; in particular it would preclude the lawful admission for permanent residence and the ultimate naturalization of close relatives of residents of the Northern Marianas, and prevent their foreign born children from becoming citizens of the United States at birth.

We have tentatively drafted the attached provisions (Attachment B) designed to take care of this problem and would appreciate your early advice on how to deal with this matter.

Mr. Marcuse in my office has informally discussed this question with Messrs. Milholland and Farb of your office.

Sincerely,

Leon Ulman  
Deputy Assistant Attorney General  
Office of Legal Counsel

Attachments

Appendix A

ARTICLE III

Citizenship and Nationality

Section 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who have taken no affirmative steps to preserve or acquire foreign nationality, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) All persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date reside or are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) All persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least

five years immediately prior to that date, and who, unless under age, have registered to vote in district elections in the Mariana Islands District prior to January 1, 197[5]; and

(c) All persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, do not on that day owe allegiance to any foreign state, and who on that date have been domiciled continuously in the Northern Mariana Islands since at least January 1, 197[4].

Section 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the United States or any court of record in the Commonwealth in the form as follows:

~~"I, \_\_\_\_\_, being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."~~

Section 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States, will be citizens of the United States.

Section 304. Citizens of the Northern Mariana Islands shall be entitled to all privileges and immunities of citizens in the several States of the United States.

Appendix B

Section 503. (a) ~~The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable by the United States Congress by law after termination of the Trusteeship Agreement:~~

(1) the immigration and nationality laws of the United States except as otherwise provided in section 506;

Section 506. (a) Notwithstanding the provisions of section 503(a)(1), the provisions of the Immigration and Nationality Act of the United States will apply, beginning with the establishment of the Commonwealth, with respect to the immigration and naturalization of close relatives, as defined in section 201(b) of the Act as amended, of persons who acquired United States citizenship pursuant to Article III of this Agreement.

(b) The term "United States" as defined in section 101(a)(38) of the Act shall be deemed to include the

Northern Mariana Islands for the purpose of satisfying the residence requirements contained:

(i) in the provisions of the Immigration and Nationality Act rendered applicable to the Northern Mariana Islands by subsection (a) of this section, and

(ii) in sections 301 and 308 of the Immigration and Nationality Act relating to the acquisition of citizenship or nationality at birth of children born abroad to citizens or nationals of the United States, respectively.

(c) The courts of record of the Commonwealth and the District Court for the Northern Mariana Islands shall have jurisdiction to naturalize persons to whom the Immigration and Nationality Act has been made applicable pursuant to subsection (a) of this section, and who reside within their respective jurisdictions.