



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D. C. 20301

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11 November 1974

MEMORANDUM FOR CAPTAIN EDWARD C. WHELAN, JR., USN
EA&PR, OASD(ISA)

SUBJECT: Marianas Agreement - Further Revision of Article VIII,
Property

The draft of Article VIII of the Marianas Agreement, sent by my memorandum of 8 November, has been further revised.

At the suggestion of Major Gehring the draft has been clarified by several changes in its organization. In addition, the statement added to the last draft regarding US "implementation" of real property acquisition "policies" has been changed to the "consideration" of "guidelines."

Signed

David W. Ream
Office of the Assistant
General Counsel (Logistics)

Attachment

cc: Mr. F. B. Roche, I&L
Mr. H. Almond, OGC(IA) ←
Maj W. Gehring, Navy JAG

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ARTICLE VIII

Property

Section 801. The title to real and personal property remaining in the Mariana Islands District on the date of termination of the Trusteeship Agreement which is owned by the Government of the Trust Territory of the Pacific Islands will be transferred on or before said date to the Government of the Northern Mariana Islands.

Section 802. Land areas to be acquired by the United States for defense purposes, to include disclaimer of present U.S. intent to acquire more land for defense purposes.

Section 803.

(a) If the Government of the United States must acquire any interest in real property not transferred to it under this Agreement, it may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with United States law and procedures any interest in real property in the Northern Mariana Islands, whether owned by private parties or by the Government of the Northern Mariana Islands, by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be mutually agreeable.

(b) Except as provided in Subsection (c) of this Section the United States will not seek any interest in real property unless the Congress

of the United States has both authorized the proposed project and provided funds therefore. Any interest in real property acquired pursuant to such Congressional action will be by voluntary means where possible. The power of eminent domain will be exercised within the Commonwealth only when voluntary means fail, only to the extent necessary, in compliance with applicable U.S. legislation, and with full recognition of the due process procedures required by the United States Constitution.

(c) The minor land acquisition authority of Title 10, United States Code, Section 2672, or comparable subsequent legislative authority, may be exercised within the Commonwealth to the same extent it is available within any State of the Union. Add as alternate: However, eminent domain proceedings using the minor land acquisition authority will not be initiated until after the expiration of 30 days from the date on which a report of the facts concerning the proposed transaction is submitted to the Committees on Armed Services of the Senate and House of Representatives.

Section 804. In the event it becomes necessary for the United States to acquire any interest in land under Section 803, the United States will consider the following guidelines will be guided by the following considerations :

(a) By careful and reasonable selection seek to acquire only the minimum area of land necessary to accomplish the public purpose for

• which the real property is sought, taking into account the scarcity and special importance of land in the Northern Mariana Islands;

(b) Seek that minimum interest in the real property necessary to support such public purpose, acquiring title only if a lesser interest would not be sufficient to satisfy the requirement.

(c) Seek first to satisfy the requirement by acquiring an interest in public rather than private real property.

Section 805. Except as otherwise provided in this Article, and notwithstanding the provisions of Article V, the Government of the Northern Mariana Islands will regulate all public and private real property transactions for the purpose of restricting acquisition of title to such property to citizens of the Northern Mariana Islands and will regulate the extent to which land now classified as public land can be held by individuals.