

02  
2,4,5

MEMCON

U.S./MPSC Joint Drafting Group

Participants: H. Willens  
M. Helfer

J. Wilson  
A. de Graffenried  
H. Marcuse  
O.T. Johnson

Date: 12 November 1974, 2:00

JW: Review of Marianas election results (EP lose; march on hill, J. Cruz singing "God Bless America")

HW: Cable from EP. <sup>who wants to keep</sup> December 2 schedule; <sup>ed</sup> Request HW 2 weeks early. Trying to call P. Tenorio ~~EP~~ re: "counter-proposal" on ~~board~~; <sup>had contacted P. Ten</sup>

JW: Other MPSC member (F. Pal. as chairman <sup>of Territorial Party</sup>) not want to meet December 2. <sup>this is</sup> up to MPSC. <sup>U.S.</sup> <sup>not</sup> want to get involved; but officially, we deal with Chairman. U.S. <sup>is</sup> willing to do whatever Commission wants to do <sup>just</sup> use

*note that the difficulty is "split" on MPSC on how to proceed.*

HW: If <sup>a partisan</sup> matter, shouldn't meet.

JW: F. Pal. says <sup>they</sup> want to reorganize MPSC.

HW: <sup>if so, this we can't</sup> Means meet after Dec/Jan.

HW: No disposition by P. Tenorio to delay session; only noted Tinian home-  
stead <sup>moratorium</sup> problem and priority <sup>need</sup> to resolve <sup>it</sup> prior to next round.

JW: P.T. said he understood <sup>where he was here in Sept. 1974</sup> that was no moratorium was local issue <sup>and he agreed.</sup>

HW: U.S. liaison may have better idea on how status invol. in elections.

JW: <sup>we are told</sup> "Pace" was only status issue raised during elections.

HW: <sup>as you know</sup> Closer we get to new status, more <sup>the</sup> local residents have <sup>high</sup> emotions, reservation

JW: <sup>Note that Mr. Raza is a problem, he is an independent advocate</sup> Raza is a problem, <sup>territorial party will have to get him on board.</sup> JCFS also chose 2 new members

of MPSC via choice of Marianas representative on JCFS (<sup>our</sup> concern <sup>is that</sup> could get

Raza on JCFS <sup>especially</sup> if Territorial party members so determine).

*In there conversation  
not any issue  
PTS  
meeting*

*Warranted, but details on counter proposal will be...*

*opponents in COM do...*

There are our concerns

Well, that's how it stands. Really up to Marianas now, but

JW: At least we can proceed with joint drafting group. <sup>Do you</sup> Want to go over the items recently drafted?

HW: <sup>We</sup> Are prepared to go <sup>precisely</sup> to tax matters. <sup>in sections</sup> 601 and 602.

JW: <sup>We</sup> We left off at end of Article VI having skipped §601/602. <sup>We</sup> Have consulted with Department of Treasury and will want to have joint session with them and your Mr. Lake. It is very technical, <sup>matter;</sup> U.S. comes to this situation;

Treasury feels strongly that on practical grounds (given recent development) <sup>in VI and Guam</sup> they can <sup>only</sup> a <sup>in the Marianas</sup> <sup>system</sup> <sup>I refer to</sup> advocate Guam system including Guam system with rebate <sup>income tax</sup> Recent development

redid Guam as relates to relation between stateside <sup>living in Guam with income</sup> and <sup>as relates to</sup> from Guam/U.S. and <sup>with Guam and US income</sup> between Guamanians living in U.S. <sup>Now cleared up with</sup> series of simple rules which <sup>are</sup> still complex. <sup>and</sup> Guam <sup>VI used to be same</sup> VI used to be same <sup>and</sup>

Were the  
members  
of the  
committee  
correcting  
the  
draft?  
I think  
so.

Try now <sup>to follow Guam</sup> record VI <sup>at next USC session</sup> follow Guam. <sup>Because interlat</sup> Because interlat <sup>change</sup> change <sup>relationship of</sup> relationship of <sup>the</sup> the <sup>in NMI</sup> in NMI <sup>and</sup> and <sup>most equitable</sup> most equitable.

Try point out that Guam's <sup>point</sup> <sup>to</sup> <sup>give</sup> <sup>rebates</sup> <sup>effectively</sup> <sup>acts</sup> <sup>to</sup> <sup>let</sup> Guam alter territorial tax as if an internal law. P.R. is along these lines given that '39 US IRC applies <sup>in lieu of the '54 Code</sup>. <sup>Guam</sup> Do draw line at being able to give rebates

to U.S. source income. If <sup>we</sup> superimpose PR <sup>tax approach</sup> on Guam system <sup>rel extend close to NMI</sup> have same arrangement <sup>as existed</sup> in Guam prior to '73. T objects to this result. <sup>we</sup> U.S. go along with

601(a)(b)(c)(d) not (e) and revise 602. <sup>we will section</sup> to make <sup>tax system</sup> conform to Guam.

HW: <sup>This is the</sup> Out of question. <sup>We have</sup> <sup>stands to</sup> <sup>holding</sup> <sup>local</sup> <sup>self government</sup> <sup>a</sup> <sup>Had</sup> <sup>agents</sup> <sup>year</sup> ago, follow <sup>P-12?</sup> <sup>No</sup> technical arguments. <sup>Not</sup> fall in line with Guam, <sup>we</sup> <sup>have</sup> <sup>principle</sup> <sup>of</sup> <sup>self government</sup> <sup>involved;</sup> <sup>Need</sup> <sup>prior</sup> <sup>to</sup> <sup>amend</sup> <sup>it</sup> <sup>can</sup> <sup>tax system</sup>

period. <sup>not</sup> <sup>back</sup> <sup>door</sup> <sup>via</sup> <sup>rebates</sup>. U.S. have power to step in and make adjustments <sup>to</sup> <sup>any</sup> <sup>Marianas</sup> <sup>change</sup>. <sup>Need</sup> <sup>to</sup> <sup>get</sup> <sup>Lake</sup> <sup>together</sup> <sup>with</sup> <sup>T.</sup> <sup>if</sup> <sup>U.S.</sup> <sup>thinks</sup> <sup>appropriate</sup>.

Marianas  
not back door  
via rebates

So is clear we

There are our concerns

JW: <sup>necessary</sup> T<sub>A</sub> has a whole series of proposals. <sup>in the territories</sup> Problem would be another variation to existing tax situation, <sup>we note this would block our goal of</sup> and eventual unification with Guam. So, that if sign <sup>different</sup> with Guam have different <sup>tax approach we really in trying</sup> the two systems <sup>together</sup> and a resulting problem on the hill.

MH: <sup>MPSC has an agreement</sup> Heard tie-in with Guam on 2 aspects (1) income tax and (2) representative in USC. <sup>I note that this is</sup> Unification argument not likely to be persuasive <sup>with the</sup> Guam/MPSC as it relates to integrity of the agent. <sup>we are negotiating (eg. unique status for the Marianas)</sup>

JW: <sup>there is</sup> No problem with "integrity" of agent <sup>the agreement; but these will be</sup> - no unification with Guam without NMI consent. <sup>this is the basis of our relationship.</sup> But if too inconsistent <sup>it</sup> make more difficult for unification to take place <sup>we create a status with Guam, we</sup> at all.

HW: <sup>well, we just disagree. none, we have</sup> On social security have discussed further. <sup>thus</sup> I believe we have similar understanding.

JW: Yes, we have your draft. We wonder whether <sup>can legally</sup> U.S. Social Security System <sup>will</sup> take over administration of Marianas Social Security <sup>in</sup> ~~no~~ accord with <sup>the</sup> laws of TTPI at time status agreement become effective.

MH: Yes, <sup>it would appear to be an issue; we</sup> need to rewrite <sup>the section</sup> to do this.

JW: No substantial problem with that approach. <sup>The US understands to protect integrity of his separate funds and marriage funds.</sup>

MH: <sup>However, there are</sup> Still some technical questions on how U.S. social security administered <sup>will then</sup> Marianas. <sup>we see fund</sup> Take from TTPI <sup>and</sup> give to <sup>a</sup> new executive during interim, <sup>then</sup> there give

<sup>JW:</sup> to U.S. Social Security Administration which would administer pursuant to local law.

MH: <sup>would</sup> Not be under control of COM?

JW: Not from time of separate administration.

MH: Is U.S. prepared to supplement funds to insure fund receive same benefits as if staged in TTPI?

JW: Not sure why not.

As to <sup>section</sup> 603 - Add phrase to <sup>pub</sup> (c) "subject to the accomplishment of

obtaining the appropriate action under the provisions of (d)".

MH: <sup>I'm not sure.</sup> This (c) operates <sup>independently</sup> of (d).

OTJ: <sup>you're</sup> Right. I <sup>missed</sup> wished this new (d) <sup>which</sup> takes place of old language.

JW: OK go back to legislative history, <sup>approach to vote our intent</sup> What about your brackets?

MH: <sup>Title</sup> 26 USC exemption from U.S. excise taxes on certain exports of U.S. <sup>is an</sup> products. <sup>but applicable laws</sup> Formula would omit <sup>as the exemption is not</sup> applicable generally to the States and to

Guam. 26 USC not apply to States generally <sup>because</sup> \_\_\_\_\_

JW: <sup>in section</sup> 604, no problem with?

HM: <sup>seems that</sup> 604(a) conflicts with 603(e).

HW: <sup>Right, we'll correct.</sup> Lets move to Article VII.

JW: We still have problem on <sup>section</sup> 701.

HM: Any way <sup>to</sup> suggest "standard of living" <sup>comparable not in unsuperable</sup> comparable <sup>We as well we want it to be</sup> with US <sup>with US system is</sup> problem.

JW: <sup>Right, we</sup> Can find appropriate language.

HW: <sup>All this does is will</sup> Identifies NMI be part of U.S. and will achieve <sup>a</sup> comparable standard of living.

JW: <sup>OK, as you know we have a little different perspective on standards. as to</sup> Reason for "multiyear"? <sup>appropriation, say</sup>

MH: Yes, to implement <sup>our</sup> agreement in <sup>the</sup> joint <sup>and</sup> communique to permit multiyear planning.

JW: Right, but we say <sup>we will</sup> appropriate for 7 years already. <sup>in section</sup> 701(a) 2nd line <sup>change, that approval by USC authorization</sup> for appropriate <sup>is also constitute on</sup> Leave (b) <sup>why did you put this in?</sup>

<sup>with USC but</sup> bracketed for time being <sup>due</sup> and to USC. On (c) U.S. executive branch agrees - <sup>this</sup> is bracketed only because of USC. Is it more appropriate to put <sup>this</sup> under (b)?

<sup>Insofar as revenue sharing is concerned we have no problems.</sup>

HW: Remove brackets? <sup>on last sentence of (c)</sup>

JW: <sup>inc. this is</sup> OK; now as to (d) <sup>we would only</sup> rather say "approval of agreement by USC will constitute <sup>agreement</sup> authorization for appropriate", because we don't know if <sup>it is</sup> is to be "enacted into law" or will be treated as if <sup>it is</sup> enacted.

Proposed for Section 701(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z)

US has cited use of a joint resolution. We note that  
MH: Joint resolution go to President in any event, as if enacted.  
JW: <sup>True but</sup> If enacted by USC through a bill would also go to President. <sup>This is a USC matter.</sup> As to  
§ 704, we discussed <sup>this issue</sup> at last meeting regarding <sup>even</sup> comptroller. Sure USC want  
retain <sup>Controlled instruction for Mariana</sup> as long as remains for Guam. <sup>He</sup> May not be needed and <sup>in that case we could</sup> just have report  
requirements.

MH: Under current U.S. laws applied <sup>to</sup> TTPI <sup>with the</sup> has <sup>newly</sup> comptroller, so would have  
comptroller until end of Trusteeship; then, USC determine if it wants. <sup>to continue</sup>  
JW: <sup>left so do</sup> Art. VIII.

MH: <sup>this</sup> Is largely old stuff.  
JW: U.S. put forward <sup>a new section</sup> 801 to clear up possible ambiguity. 1st transfer X, <sup>transfer of government property</sup>  
take place <sup>separate</sup> administration; so all TTPI X used by MD go to MD and  
other TT property needed by interim executive. Note that TTPI HQ have stay  
in MD until <sup>place</sup> to move to, but, prior to end TA, will move out and take X  
(personal) with it; any remaining TTPI X go to MD. Now maybe don't need  
old 801.

MH: <sup>Section</sup> 801 effectively says that TTPI retain property <sup>as it needs it.</sup>  
HW: <sup>In answer</sup> Seems well to have some provision dealing with this. <sup>well</sup> Would recommend <sup>to</sup>  
to client <sup>and also</sup> that this transfer would occur no later than at this date. Most  
important is firm U.S. commitment that all TTPI property in Marianas <sup>will</sup> go to  
MD at end TA.

MH: Why "or held" <sup>message</sup> dropped?  
JW: <sup>this</sup> Was a defense objection; could include MARAD equipment owned by USCS  
out to TTPI. Only Section 802 problem <sup>now</sup> is "lease U.S. purchase" <sup>note that</sup>  
"purposes" for which base to be used was dropped. <sup>how do we do it?</sup>

MH: Right <sup>I am</sup> not sure U.S. wanted to restrict use to a set purpose.  
JW: <sup>also</sup> Agree. <sup>Note</sup> Land Survey in: (a) 17,808 acres on Tinian not acct, for  
adjustment on Harbor. (b) 484 acres Isley (c) 133 acres Tanapag (d) 226  
acres Farallon.

On terms/conditions of land transfer our tentative thinking is that if land entity <sup>is</sup> in being at time, <sup>the we are</sup> really to sign, no problem; <sup>but</sup> if no legal entity, <sup>exists</sup> at time then maybe <sup>we sign agreement</sup> include in technical agreement. <sup>we can</sup> All the items <sup>which are</sup> to be included in the lease so that when entity <sup>is</sup> created <sup>terms there</sup> could be included in lease agreement. Not <sup>sure</sup> some who <sup>would</sup> sign technical agreement.

HW: <sup>we are</sup> Prepare to consider a technical agreement to pull out from <sup>it</sup> status agreement but make <sup>it</sup> part of <sup>the</sup> status agreement. <sup>we still</sup> Prefer to deal with U.S. OMSN not DOD.

JW: Agreeable, but technical <sup>still</sup> have to get DOD to sign. A lot of standard language would go into technical agreement, but <sup>would</sup> leave to real estate lawyers most important items <sup>take the</sup> in technical agreement. Prefer to focus

HW: on that kind of agreement rather than agreement on joint land draft report.

JW: Make whole thing subject to condition subsequent. <sup>we are</sup> §804 split on <sup>to be</sup> "empowered" on alienation, <sup>on return of military retention land, no substantive problem but</sup> <sup>we</sup> want to see MPSC language. <sup>on</sup> §805 leave in brackets.

MH: <sup>we</sup> Note military <sup>is</sup> concerned that won't be able to get apt. leases in Marianas, so <sup>we</sup> put in "short-term" interests.

JW: Have some <sup>other</sup> technical suggestions.

MH: Note that can't use present "except as otherwise provided" clause. <sup>we</sup> Will have to refer to <sup>specific</sup> applicable provision of U.S. Constitution and this agreement.

JW: <sup>OK; section then</sup> On 806 would become 807 (eminent domain).

HW: <sup>we have</sup> Just seen U.S. draft.

MH: U.S. 607(a) is description how U.S. eminent domain works, <sup>as such</sup> <sup>it</sup> is superflous. <sup>The</sup> Guam formula would apply, <sup>this</sup> and is no change in initial U.S. position.

HW: So a substantive difference.

JW: Quite right.

HW: Suggest we draft <sup>separate</sup> language to put in <sup>separate</sup> brackets.

JW: How about drafting joint language except for substantive differences.

OTJ: Defense emphasized that current procedure gives USC review over <sup>with acquisition</sup> ~~and acquisition~~ <sup>and felt that highlighting this</sup> would satisfy MPSC.

HW: Our initial reaction is that it doesn't. If DOD want<sup>s</sup> USC review should agree to MPSC approach.

OTJ: That would require a bill to go through <sup>both houses of House</sup> USC & Committee approval.

HW: Right; MPSC <sup>is</sup> insisting <sup>on a</sup> change in existing procedure, <sup>we</sup> want full USC to review <sup>all DOD acquisitions in the Americas.</sup>

JW: <sup>we need to disagree on what we can accept.</sup> Art IX, Burton had difficulty with term "resident commissioner". <sup>this is up to USC. As to</sup>

MH: Why?

JW: Burton notes (1) PR still has R. Comm. (2) R. Comm. considered sup<sup>er</sup> to <sup>we need to discuss</sup> delegate and would have problem with Guam and VI, <sup>which have "delegated"</sup>

HW: <sup>is</sup> This interferes with <sup>additional and self-determination</sup> basic representation rights. <sup>is</sup> Burton may have to swallow MPSC approach.

JW: U.S. <sup>will</sup> try to come up with a suitable term; have <sup>we</sup> examined "agent" "emissary", etc.). <sup>we are still discussing. See introduction</sup> 902 no substantial difference between U.S./MPSC. We do

have a modified version. No problem with MPSC 1st bracket: consult, <sup>we</sup> at request and not less frequently than every 10 years. <sup>we</sup> 903 agree. <sup>we</sup> 904(c)

membership in regional organization, <sup>we</sup> Issue is clear, might note that Guam just denied <sup>a</sup> request for ESCAP membership.

MH: <sup>but, we</sup> Agreed to <sup>this our</sup> in joint communique.

JW: Quite right, but is where "Homer" nodded. On Article X, <sup>we</sup> Might delete "promptly" submitted.

HW: OK. <sup>to section 1001</sup>

JW: Any <sup>to</sup> difficulty on enactment issue?

MH: Is substantial difference.

JW: Lets get some language to overcome "enactment" issue - all agreement it will have "effect of laws". <sup>What about Section</sup> On 1002.

MH: Problem. <sup>§1001</sup> 101 provides commonwealth come into being on end trusteeship. So 1002(a) repetitive; (c) also. If read 1002 literally - Commonwealth can't come into existence until proclamation issued by President. <sup>We felt this was</sup> Not turn on issuance <sup>of a</sup> proclamation but on end of trusteeship.

HW: No problem with language saying Commonwealth coming into effect "on termination of TA or declaration that termination is effected".

JW: Right. Lets get some language.

MH: <sup>We note</sup> If 202 language adopted then <sup>we can</sup> eliminate all of <sup>Section</sup> 1002.

JW: Lets fo to §1004 and effective date. 1st difference is 104 (U.S. def/FA provs.) <sup>This would</sup> U.S. come into effect at end of <sup>the</sup> trusteeship. <sup>Section</sup> No need to be given FA/D'se provs. <sup>as have under TA.</sup>

HW: <sup>Presumably by their logic</sup> Agree <sup>to change</sup>

JW: <sup>Section</sup> 503 } during interim period <sup>you would US</sup> not want to change provisions <sup>on</sup> 503 so <sup>this</sup> should become effective immediately. U.S. problem is that conceptually you say you don't want certain laws to apply but immediately apply the provision. No real substantial difference.

HM: Why shouldn't 502 and 503 come into effect at same time since 503 is an exception to 502.

HW: At the time the commonwealth government becomes effective is time at which all laws applied to it.

JW: No problem with making 503 applicable immediately. <sup>on Section</sup> 504; U.S. doesn't have <sup>new draft ready. Anything else on effective date provision?</sup>

MH: <sup>Section</sup> 602 treats Marianas as a possession under US IRC, so <sup>we</sup> don't want <sup>it effective</sup> until end <sup>of the</sup> TA.



(IRC as a  
local territorial law)

DOD

JW: MPSC want postpone 601 to end of TA?

HW: Client should have 601 <sup>during return</sup> apply to get idea of local income available. 602

Also want different effective dates so that they will have only 1 tax return to file until end of TA and give locals idea of <sup>the</sup> mysteries of the US IRC return.

JW: <sup>is to</sup> 605 and 801 save for discussion. <sup>we'll further discuss</sup> 901 a problem?

MH: 901 should come into effect when new government comes into effect.

JW: Right. As to §1006 - 1st sentence <sup>is</sup> superfluous. <sup>bring to</sup> §1007 Definitions.

No problems except DOD <sup>is</sup> to check inclusion of certain shoals in def. <sup>the</sup> of NMI.

HW: Right →

JW: No need to put separate administration in <sup>agreement</sup> agent; timing <sup>the</sup> be solved in

next month or so; <sup>we</sup> at Hawaii. Agreed that it would be after plebiscite.

HW: Agree <sup>the</sup> not include, in light of this <sup>some times</sup> information.

JW: Next meeting - next week!

HW: Will call and set up a time. <sup>addition</sup>