

November 22, 1974

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MEMORANDUM FOR MARIANAS POLITICAL STATUS COMMISSION FILE

SUBJECT: Meeting of the Joint Drafting Committee

A meeting of the Joint Drafting Committee was held on November 21, 1974 in the Interior Department Offices of James Wilson. Attending for the United States were Mr. Wilson, Adrian de Graffenried, Herman Marcuse and Thomas Johnson. Attending for the Marianas Political Status Commission were Howard Willens and Michael Helfer.

Mr. Wilson stated that the United States had agreed to the Commission's desire for a session beginning the week of December 2. He thought that the formal opening might occur on December 5. Prior to that time there could be informal meetings of the land committee and of the drafting committee. Mr. Willens stated that he thought it might be useful for the United States to identify the outstanding issues in the land area for negotiation rather than attempting to develop a land committee report which was acceptable to both sides. Mr. Wilson indicated that he agreed.

Mr. Helfer told Mr. Wilson that after a discussion with Mr. Tenorio in Saipan on the 20th, the Marianas representatives to the Joint Land Committee had decided not to make a counter offer to the United States until after the Commission had met. This was expected to occur on the 25th or 26th. The results of the Commission's deliberations in this regard would be communicated back to Washington and them promptly to the United States delegation.

There was then a brief discussion of the document which would contain the statement of the negotiators' intent with respect to the status agreement. Mr. Wilson stated that he thought the document could take the form of the report of the Joint Drafting Committee. Mr. Willens stated that that might be an acceptable format, but pointed out that there might be situations where additions to the statement of intent would be required after the principals had met. The issue of the form of the statement of the negotiators' intent was not resolved. Mr. Helfer gave to Mr. Marcuse and Mr. Wilson copies of a preliminary draft of the statement of the negotiators' intent prepared on behalf of the Commission.

The discussion then turned to the substantive differences between the principals reflected in the November 20, 1974 Joint Drafting Committee Working Draft. With respect to the

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title, Mr. Wilson stated that the United States did not want to call the document an "agreement" because this is a term which is reserved for understandings executed between separate governments. The United States first preference continues to be "covenant". Alternatively, the United States proposed calling the document the "articles of agreement".

Differences with respect to Committee Working Draft Sections 105, 202 and 504 were noted. A new version of Section 506 was presented by the United States for inclusion in the Committee Working Draft.

There was a discussion of the United States versions of Section 601 and 602 dealing with tax. Mr. Wilson stated that the effect of the Sections as the United States had drafted them was to implement the Guam system. After discussion, Mr. Wilson agreed that if the principals do decide that the Marianas should be treated as is Guam for purposes of federal income taxation, there were easier and more direct ways to implement that agreement than the U.S. version of Sections 601 and 602. Mr. de Graffenried said he would prepare, in conjunction with the Treasury Department, a simpler version of these Sections, implementing the Guam system. He also said he would check with Treasury on the question whether it was appropriate to implement the Guam system prior to termination of the Trusteeship, in view of the fact that to some extent the Internal Revenue Code provisions turn on U.S. citizenship.

It was agreed that the brackets could be taken off of Section 605 because there was no policy difference between the principals; the Section is still subject to further technical review, however. Differences between the principals reflected in Section 701 and 702 were noted. With respect to Section 801, there was an extended discussion of the concerns on both sides. Mr. Wilson said that the United States had no objection to making a commitment to transfer all real property now owned or held by the Trust Territory or hereafter acquired by the Trust Territory in the Northern Mariana Islands to the Government of the Northern Mariana Islands on or before termination. The United States does not want to be committed to a specific timetable in view of the Public Land Policy Statement, and in view of the Trust Territory Government's in need for land until termination of the Trusteeship. With respect to personal property of the Trust Territory in the Marianas and elsewhere, Mr. Wilson noted that the division of these assets posed a difficult problem, a large part of which would have to be faced at the time of separate admin-

istration. He had no objections to a commitment on the part of the United States to treat the Marianas equitably or fairly, but he could not agree to transfer all personal property of the Trust Territory in the Marianas to the Marianas upon approval of the status agreement. Mr. Willens said he would consider Mr. Wilson's comments and attempt to draft provisions of the status agreement to implement this proposal, since it seemed to respond to the major interests of the Commission satisfactorily.

Differences between the principals with respect to Sections 802, 803, 804, 805 and 806 of the status agreement were noted. There was a brief discussion concerning whether the "technical agreement" with respect to the terms of the land use arrangement would be incorporated by reference into the status agreement or not. Mr. Wilson said that he thought it should not be incorporated by reference but should instead be approved separately by the District Legislature. He thought this approval was necessary to assure that an entity with a legal authority to bind the Northern Mariana Islands had agreed to the technical agreement. Mr. Willens stated that he thought it was important for the status agreement to contain the more fundamental terms of the lease, even if this meant taking up a few pages and even if there was a separate technical agreement. Mr. Willens also indicated that he had some concern about putting the technical agreement to the District Legislature separately from the status agreement, and the implications that this might have with respect to the plebiscite and approval by the United States Congress. The issue was left for further discussion.

Other differences between the principals reflected in Articles IX and X of the Committee Working Draft were noted, but not discussed, except for Section 1001. With respect to Subsection (a) of that Section, Mr. Wilson noted that the United States had proposed language restricting participation in the plebiscite to those of Northern Mariana Islands descent. This is intended to assure that only those with a commitment to the Marianas and interest in its future status voted in the plebiscite. Mr. Willens agreed that this was a matter which should be discussed at the up-coming negotiations. He noted that the use of a classification based on ancestry might raise problems in the Marianas, in the United States and even in the United Nations with respect to the validity of the plebiscite. He suggested as an alternative that participation in the plebiscite be limited to those

who are domiciled in the Marianas. Since a person can have only one domicile, this would prevent those who reside in the Marianas but intend to move elsewhere or have permanent homes elsewhere from voting in the plebiscite. He also noted that it might be desirable for the United States to cause a new registration for the plebiscite to be carried out in order to implement the requirement of domicile or any other requirement which was added to the voting requirements of the Trust Territory law. It was agreed that this would promptly be done only in consultation with the District Legislature.

It was agreed that Mr. Helfer would continue to stay in contact with the United States representatives through November 28. Mr. Willens is leaving for the Marianas on November 22. The United States Delegation expects to leave on November 29.

Michael S. Helfer

cc: Howard P. Willens