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ISA SENDS
CINCPAC REP GUAM TTPI PASS INFO FOR CAPT WHELAN FROM DAVID REAM
OSDIOGC

SUBJ: MARIANAS DRAFT AGREEMENT, ARTICLE VIII
1. (U) PURSUANT TO YOUR REQUEST, THE INFORMATION I FURNISHED ON
DOD PROPERTY ACQUISITION PROCEDURES AT MEETINGS IN MR WILSON'S
OFFICE IS SUMMARIZED HEREWITH.
2. (C) ONE OF THE PROBLEMS RAISED IN DRAFTS OF ARTICLE VIII OF THE
MARIANAS AGREEMENT WAS THE EXERCISE OF THE POWER OF EMINENT DOMAIN
TO SECURE PROPERTY FOR THE USE OF THE UNITED STATES, ONE VERSION
WOULD PREVENT ANY EXERCISE OF SUCH AUTHORITY (OTHER THAN FOR A
LIMITED PERIOD) "UNTIL THE CONGRESS OF THE UNITED STATES HAS BY LAW

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EXPLICITLY AUTHORIZED AND APPROVED THE EXERCISE OF THE POWER OF
EMINENT DOMAIN TO OBTAIN A PARTICULAR INTEREST IN A PARTICULAR
PARCEL OF LAND IN THE COMMONWEALTH." THE PROBLEMS THIS COULD RAISE
WERE DISCUSSED AND THE PROCEDURES FOR THE EXERCISE OF EMINENT DOMAIN
AUTHORITY, GENERALLY, WERE OUTLINED BY C BREWSTER CHAPMAN OF THE
DEPT OF THE INTERIOR,

3. (C) THE ALTERNATIVE POSED BY THE DEPARTMENT OF DEFENSE RECOG-
NIZED THE DESIRE OF THE PEOPLES OF THE TRUST TERRITORY TO PREVENT
THE ARBITRARY EXERCISE OF THIS POWER BY THE US GOVERNMENT, THE
SUGGESTED LANGUAGE WAS INTENDED TO INDICATE THE ROLE PLAYED BY
THE CONGRESS IN ALL SIGNIFICANT REAL PROPERTY ACQUISITIONS, THUS
OBTAINING NEED FOR SPECIFIC LEGISLATION PRIOR TO EXERCISE OF EMINENT
DOMAIN AUTHORITY, WHILE MINOR LAND ACQUISITIONS (10 USC 2672) ARE
NOT REVIEWED BY THE CONGRESS, MOST PROPOSED ACQUISITIONS ARE SCRU-
TINIZED AT TWO SEPARATE TIMES, FIRST, PROPOSED ACQUISITIONS ARE
INCLUDED IN THE MILITARY CONSTRUCTION AUTHORIZATION BILL SUBMITTED
TO THE CONGRESS EACH YEAR, THE BILL IS ACCOMPANIED BY DETAILED
BACK-UP INFORMATION ON THE PROPOSED PROJECTS, ADDITIONAL INFORMA-
TION ON THE PROPOSALS MAY BE GIVEN, AS DESIRED BY THE CONGRESSIONAL
COMMITTEES, DURING THE HEARINGS, THE ANNUAL MILITARY CONSTRUCTION

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APPROPRIATION BILL UNDERGOES CONGRESSIONAL REVIEW AT THE SAME TIME
PROJECTS REQUIRING APPROPRIATION OF FUNDS MAY BE THE SUBJECT OF
HEARING HEARINGS, ONLY THOSE PROJECTS THAT HAVE BEEN AUTHORIZED
BY PUBLIC LAW AND FOR WHICH ANY NECESSARY FUNDS HAVE BEEN APPROPRI-
ATED MAY GO FORWARD. IT SEEMS UNNECESSARY TO REQUIRE CONGRESSIONAL
APPROVING OF EMINENT DOMAIN ACTION WHEN "NO MILITARY DEPARTMENT MAY
ACQUIRE REAL PROPERTY NOT OWNED BY THE UNITED STATES UNLESS THE
ACQUISITION IS EXPRESSLY AUTHORIZED BY LAW" (10 USC 2676); THERE IS,
IN ADDITION, A SECOND OPPORTUNITY FOR CONGRESSIONAL REVIEW PRIOR
TO THE ACQUISITION OF THE PROPERTY AND AFTER THE ENACTMENT OF THE
CONSTRUCTION BILLS, THE ARMED SERVICES COMMITTEES OF THE SENATE AND
THE HOUSE OF REPRESENTATIVES MUST BE NOTIFIED AT LEAST 30 DAYS PRIOR
TO CONSUMATING ANY OF CERTAIN SPECIFIED REAL PROPERTY TRANSACTIONS,
INCLUDING ACQUISITION OF FEE TITLE TO ANY REAL PROPERTY WITH AN
ESTIMATED PRICE OF MORE THAN \$50,000 OR LEASE INTEREST WITH ANNUAL
VALUE OF MORE THAN \$50,000 (10 USC 2662).

4. (C) I UNDERSTAND THAT MR ROY MARKON, THE ACKNOWLEDGED DOD
EXPERT ON REAL PROPERTY ACQUISITION, IS PRESENTLY IN THE MARIANAS
WITH YOU, SEE HIM FOR CLARIFICATION OR ADDITIONAL DETAIL.

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