February 7, 1976

MEMORANDUM FOR MR. WILLENS

Subject: IPSC -- Discussion with Adrian DeGraffenried

In the course of a conversation on other topics, Adrian told me that it appeared that his position had been misrepresented. Scott apparently got the impression from you that Adrian had told me that the U. S. was considering changing some of the positions it had already taken, in view of Norton's comments. This, Adrian said, was not so; and, he went on, he had not said this to me. I agreed that there was no suggestion in our earlier conversation that the U. S. would back off from positions already taken. Adrian had expressed the view, I said, that there was considerable concern about proposals to treat the Marianas differently from existing territories. Adrian did not disagree.

On other matters, the TT has still not had its version of the land legislation introduced.

Michael S. Helfer

February 7, 1974

MEMORANDUM FOR MR. MILLENS

Subject: Meeting with House Subcommittee on Territories

1. Guam and the Virgin Islands were granted Delegates by P. L. 92-271, approved on April 10, 1972. The Senate Report states that based on "the preliminary figures of the 1970 census" Guam had a population of 86,326 and the Virgin Islands of 63,200. The Report noted Alaska was granted a delegate in 1906 when it had a population of less than 65,000, and that "[o]ther U. S. territories with earlier representation in Congress had even smaller populations." A highlighted copy of the Senate Report is attached.

2. Section 872(b)(4) of the I.R.C. provides that "[i]ncome derived by a nonresident alien individual from a series E or series H United States savings bond [shall not be included in gross income of a nonresident alien individual, and shall be exempt from taxation], if such individual acquired such bond while a resident of . . . the" TTPI. Subsection (b)(4) was part of the Foreign Investors Tax Act of 1966 (P. L. 89-809). That portion of the Senate Report which explains the subsection is attached. Simply stated the purpose was this: income from such savings bonds was U. S. source income; nonresident aliens had to pay a flat 30% tax on U. S. source income; individuals in the Ryuku Islands and the TTPI used U. S. savings bonds as a convenient way to save (particularly those employed by the U. S.); it seemed unfair to tax these nonresident aliens on the income from the savings bonds at a rate different from the rate they would pay on the income from other non-U. S. source investments or savings.

I spoke to David Lake about the proposal. He stressed that the objective was to continue the benefit of Section 872(b)(4) in effect for persons who are now eligible to take advantage of it, but who would lose that eligibility once they became citizens or nationalsof the United States. It was not intended to enlarge the class of persons who are eligible for this benefit. David said that as he understood our proposal, persons in the Marianas would pay income tax at the regular U. S. rates on income from savings bonds if Section 872(b)(4) is not amended.

They would not pay a flat 30% tax on U. S. source income as do nonresident aliens. With respect to Burton's concern that this would become a loophole for the rich, David pointed out that the amended section will apply only to "indigenous" Marianas citizens. Thus persons who qualify for the benefits of Section 934 in the Marianas would not thereby escape U. S. tax on income from savings bonds. David characterized these as drafting problems which have yet to be faced.

Note that all that has been agreed to so far by the United States is fully defensible: continued exemption for its persons who bought bonds before the establishment of the Commonwealth. The Joint Communique at pp. 4-5 reads:

> "Section 872(b)(4) . . . would be amended to continue its application in the Marianas under the new political status -- at least with respect to bonds acquired prior to the establishment of the Commonwealth."

Michael S. Helfer