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FEDERAL PROGRAMS FOR POSSIBLE DISCUSSION
AT HAWAII

1. Problem: How to articulate the offer of Federal Programs and Services in the agreement between the USG and the Marianas.

2. Discussion: In the December round of negotiations, the U.S. tabled an "Article VI Financial Provisions" portion of a draft Covenant. Section 602 b(2) stated, "The U.S. will provide the Government of the Northern Mariana Islands without compensation the full range of Federal Services and programs available to the Territories of the U.S.".

It was intended thereby to provide the basis for a liberal interpretation by the Congress and pave the way for representatives of the Marianas, after the establishment of the Commonwealth, to reach agreement with Federal Agencies and Congressional Committees on a range of benefits as broad as those accorded Guam.

We have learned, tangentially from Howard Willens, that the MPSC is doing some research in this area to determine whether it is feasible (possible) to nail down this area of federal assistance with greater precision, i.e., enumerate the specific programs and services in the Covenant.

3. Options:

(a) Merely make the Marianas eligible for Federal services and programs (unspecified) and let them make their own arrangements after establishment of the Commonwealth.

(b) Make the Marianas eligible for all Federal programs and services available to the States as well as Guam. This puts a limit on the range of services and programs (since some federal program are available to the States only - not to the territories. It similarly eliminates special programs designated solely for Guam (Guam Rehabilitation Act; Guam Economic Development Act, etc.).

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(b) (1) Variation on (b) above: Make the Marianas eligible for programs and services available to the States as well as to the Territories of the U.S.. This would eliminate specific reference to Guam but introduce complications since all Territories are not treated alike in this area.

(c) Make the Marianas eligible for a very specific list of programs and services - listed by name in the Covenant.

4. Critique

Option 3(c) presents two major difficulties. In the first instance, there is no way of knowing whether and for how long specific programs will be continued as they are presently constituted. The USG is moving towards a broader brush approach - revenue sharing - and it is therefore incongruous to enter into an agreement now which appeared to be swimming against the tide.

The second problem is the tactical one of getting Congressional approval of the Covenant. The listing of specific programs is bound to involve extensive (if not intensive) clearances with the Executive Branch and between the diverse Congressional committees. This could become a serious matter in a period when domestic programs are being cut back and the competition for scarcer resources is becoming more intense. With a population of some 14,000 people, and no votes in the Congress, the Marianas are not likely to share very well.

Option 3(a) appears too broadly drawn to suit either the Marianas or the USG. It guarantees nothing for the Marianas by being so broad and is likely to be rejected by the U.S. Congress because it makes the Marianas eligible for programs now reserved for the States, i.e., a preferred position over other U.S. territories.

Option 3(b) is really what the Marianas are seeking and what the U.S. should be prepared to offer. The 3(b)(1) variant is not so bluntly directed at parity with Guam but in avoiding that semantic difficulty, it generates other problems. It would tend to give the Marianas an advantage over Guam because the former could be eligible for a broader selection of programs and services, e.g., those available to the States and Puerto Rico but not to Guam.

5. Recommendation

(a) Discourage MPSC from research leading to itemization of programs and services.

(b) Recommend adoption of Covenant language incorporating option 3b. If explicit use of Guam formula is stumbling block, we can try 3(b)(1) variant - recognizing it could spell some trouble.