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United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

November 26, 1974

IN REPLY REFER TO:

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Secretary's Files

Memorandum

To: Director of Territorial Affairs

From: C. Brewster Chapman, Jr., Assistant Solicitor, Territories
Division of General Law

Subject: Joint Drafting Committee Working Draft - November 11, 1974 -
Agreement to Establish the Northern Mariana Islands Political Union
with the United States of America

You have asked for my comments on the subject draft agreement. I received a copy of this document informally on Friday. Over the weekend, in addition to preparing myself for the all-day sessions on Monday regarding the return of Enewetak, I had time hastily to scan this document. I have devoted enough time this morning to more carefully read it, and I have concluded that it would be impossible thoughtfully and meaningfully to comment on it by COB today. I have participated in virtually none of the negotiations that have led to the present proposed language - both U.S. and MPSC versions. Further, since there are two versions throughout the document, I find it most difficult to know which one to address myself to. Generally, I find the MPSC versions objectionable, but, by contrast, I cannot say that I necessarily fully approve all the U.S. versions. Much of this document covers areas of expertise which would require thoughtful review, input and comment by other agencies of the U. S. Government.

For example, when, at one time, I worked on a joint committee, the subject of taxes was addressed. I made it quite clear that any final language on this subject should be reviewed by Treasury, IRS and Justice. Similarly, those provisions relating to citizenship and immigration and naturalization should be referred to INS. I suspect that DOT, HEW, Commerce, FCC, FAA, Customs, FDA and SSA, to name only a few, might have some interest as the proposal relates to their respective areas of interest and responsibility.

My superficial review of the document leads me to the tentative conclusion that there is so much of it that is objectionable that I could not approve it as a whole. For example, I believe that



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it has constitutionally objectionable features particularly in relation to land ownership and tenure. Moreover, I wonder whether the Congress of the United States has the authority to waive the U.S. Constitution as this document appears to do in a couple of places. I find particularly repugnant the obvious "plunder" of the U.S. Treasury envisioned by the level of financial assistance called for together with the apparently huge sums that will be required from the U.S. to assure its defense needs. I find the provisions relating to a District Court and appellate jurisdiction so obtuse and confusing as to be almost incomprehensible. These clearly would have to be more comprehensible and realistic, and as I say this, I ponder why a new District Court is established for some 15,000 people in the Northern Marianas, when the jurisdiction of the Guam District Court could easily be expanded to include this incipient new territory.

In my opinion, this arrangement will create a new group of U.S. citizens who will be favored above all other U.S. citizens while at the same time it will require of them virtually none of the usual duties and obligations of U.S. citizens. This, I believe, is most undesirable particularly as it bears on our relations with our other territories. The domino effect could create a chaotic situation from which we might spend years extricating ourselves.

I have read Emmett Rice's very thoughtful comments and where as I do not necessarily fully agree with everything he has said, I certainly agree generally with his Major Concerns Numbered 1, 2, 3, 4, 5, 9, 11, 13, 14, 15, and, in general, with his concluding paragraphs on pages 17 and 18.