

ANSWERS TO TENORIO'S QUESTIONS

1. U.S. Minimum Wage Law. As your message notes, MPSC requested that this provision of U.S. law not be extended to the Northern Mariana Islands and the U.S. agreed. Both parties recognized that the application of the U.S. minimum wage law might have an adverse effect on the economy of the Northern Marianas. It was agreed that the new Government of the Northern Marianas would have authority to pass its own minimum wage laws. It will be in a good position to decide what minimum wage levels to adopt in the light of its assessment of the Marianas economy. It could, of course decide to adopt a minimum wage law identical to that of the United States. Accordingly the U.S. considers that the minimum wage provision in the Covenant should remain as negotiated.

2. War Claims. The settlement of Micronesian War Claims is the subject of an international agreement entered into by the United States for all of Micronesia. Additionally, the issue of war claims does not constitute an aspect of the future political relationship between the United States and the Northern Marianas and for these reasons, the U.S. considers that this issue is inappropriate for inclusion in the fundamental document establishing the future political relationship.

3. Eminent Domain. The United States considers that it is absolutely necessary that the Federal Government have the power of eminent domain in areas under the sovereignty of the United States. This principle applies to all of the States of the United States, as well as all of the territories of the United States. The United States recognizes in the Covenant the importance with which the people of the Marianas regard

ownership of land. Nonetheless, it is an inherent aspect of the close relationship with the U.S. which the people of the Marianas seek that the Federal Government have the authority to acquire interest in land, where necessary, by eminent domain.

4. Job Preferences. The United States cannot consent to guaranteeing in the Covenant that the people of the Commonwealth of the Northern Marianas will be given preferential treatment, over other American citizens, in employment. Such preferential treatment would appear to be discriminatory and violative of fundamental rights protected by the U.S. Constitution. These fundamental rights will also be extended to the people of the Northern Marianas. Accordingly, other Americans will not hold job preferences under the Commonwealth. However, like other territories and States of the Union, the Northern Marianas may enact laws establishing the criteria for the granting of local licenses and permits; but these laws may not be applied in a discriminatory manner. Thus, for example, the Northern Marianas could require that employees performing certain activities or fulfilling certain professions, such as teaching, have a proficiency in one of the local languages.

5. Vote for the U.S. President. Under the U.S. Constitution only U.S. citizens residing in the States of the Union or the District of Columbia may vote in elections for the President of the United States. A constitutional amendment would be necessary in order to permit U.S. citizens residing in the future Commonwealth of the Northern Marianas to vote in such elections. Accordingly, it is not appropriate that this issue be

addressed at all in the Covenant, since the Covenant is not the proper vehicle for amendment of the U.S. Constitution.

6. Voting Representative in the U.S. Congress. The U.S. Executive has supported before Congressional Committees the desire of the MPSC that the Mariana Islands be given a non-voting delegate to the U.S. Congress. The question of a voting representative has not heretofore been raised. In any case, the final determination of whether the Mariana Islands will be given a non-voting delegate is the sole determination of the U.S. Congress, and the Executive Branch has been advised that it is not appropriate to include this issue in the Covenant.

7. Guaranteed Financial Support. No greater guarantee can be given for the provision of financial assistance to the Northern Marianas than the "pledge of the full faith and credit of the U.S." found in the Covenant. In Section 702 of the Covenant the United States undertakes to authorize specific amounts of financial assistance for a number of years. Each year the amounts must be specifically appropriated. By Section 703 a wide range of federal assistance will be available to the Northern Marianas without the need for specific appropriations, and in addition, the Northern Marianas would receive reimbursements of customs duties and taxes derived from the Northern Marianas.

8. Guarantee that Carolinians may Own or Purchase Land in the Marianas. The Covenant assures that people of Carolinian descent retain the right to own or purchase land in the Northern Marianas. Under Section 805 of the Covenant ownership of land is restricted during the first 25 years to

"persons of Northern Mariana Islands descent". It was, and remains, the understanding of the United States that this phrase includes Carolinians. It is the understanding of the United States that the representatives of the people of the Northern Marianas, the MPSC, also accept this interpretation.

9. Making the Marianas Constitution the Supreme Law of the Land. Historically, the political and legal relationship between the Federal Government and the States and territories has been set forth in the U.S. Constitution which creates the Federal Government and establishes both its authority and the limits of its power. In no other situation has the local State Constitution or the constitution of any territory been held to be superior to the Federal Constitution. The Covenant provides for the political relationship between the United States and the Mariana Islands. It also provides that the Covenant and the U.S. Constitution will be the supreme law of the Northern Mariana Islands. It would be entirely inconsistent with the close relationship sought by the people of the Northern Marianas for the Marianas Constitution to be superior to the U.S. Constitution.

10. Renegotiate Land Lease Prices and Periods. The terms of the land use agreements, including both the levels of payments and time periods, reflect the fair value of the lands and the terms under which the United States can best utilize the lands to meet the defense needs of our nation of which the Northern Mariana Islands will be an integral part. The U.S. considers that the terms which have been negotiated are equitable, and

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sees no reason for renegotiation.

11. Limiting Other U.S. Citizens from Establishing Permanent Residence in the Mariana Islands. It is recognized that the Constitution guarantees to all American citizens and nationals the right to travel freely within the territory of the United States. As American citizens, the people of the Mariana Islands would have the right to demand equal treatment if they should travel to or reside in any other territory or State of the Union. Again, this right is basic to the close relationship with the U.S. which the people of the Northern Mariana Islands have requested.

12. Unilateral Termination. Unilateral termination is regarded by the United States as profoundly inconsistent with the status of close relationship which the people of the Northern Mariana Islands have requested.

13. Increase Approval Requirement to 66 2/3%. The people of the Northern Mariana Islands should be able to express their views pursuant to traditional democratic processes. Among other things, this means that the majority of the people should be able to express their preference for or against the Covenant. Increasing the vote necessary for approval of the Covenant to 66 2/3% would in essence mean that 1/3 of the population of the Northern Mariana Islands could frustrate the desire of a majority of the people. The current figure necessary for approval is a more equitable one.

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DEPARTMENT OF JUSTICE DOCUMENT SHEETS

72. Draft dated April 29, 1975 of Answers to Tenorio's Questions.

Withheld 09/18/86

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