

01  
542316  
506

THE WHITE HOUSE  
Washington, D.C.

Old Executive Office Building  
Room 361  
Washington, D.C. 20506  
May 5, 1975

Senator Pedro A. Tenorio  
Member Marianas Political Status Commission  
Saipan, Mariana Islands 96950

Dear Senator Tenorio:

The following is in response to the series of questions you posed in your message of April 23, 1975. As answered in my letter to you of April 28, 1975, after consultations with the Congress the signed Commonwealth Covenant as agreed to by the Marianas Political Status Commission and approved by the Marianas District Legislature is not open for amendment, revision or renegotiation. It is to be presented as it stands to the people of the Northern Marianas in order for them to exercise their right to choose in a free and open election whether or not they wish to become a self-governing commonwealth in political union with the United States. If they approve the Covenant, it will then be submitted in exactly the same form to the Congress of the United States for approval or disapproval but not for amendment by that body.

It should be made clear to all that the issues involved in the list of questions you submitted were carefully considered before agreement was reached between the representatives of the Northern Marianas and the United States. The Covenant which incorporates these agreements is now being submitted in a democratic fashion to the people and the Congress for their final review and judgment.

Specific comments on each of the questions asked are as follows:

1. U.S. Minimum Wage Laws. As you have correctly stated, the MPSC and the U.S. favored the omission of U.S. minimum wages on the grounds that the U.S. wage levels at this time would be economically disadvantageous to the best interest of the Marianas. The Marianas Legislature is free to adopt its own local laws with respect to minimum wages which it considers appropriate to the economic situation in the Northern Marianas. The Northern Marianas Commonwealth government could for example freely decide to adopt a minimum wage law for the Northern Marianas identical to that of the United States if it so desired. The U.S. would consider this to be a local matter and would not oppose such action.

03 - 026758

2. War Claims. The agreements and the provisions for the settlement of war claims are applicable to all of Micronesia and therefore they fall outside of the Commonwealth Covenant for the Northern Marianas. However, the Covenant does protect the rights of the people of the Northern Marianas with respect to their claims by specifically stating that the Micronesian Claims Act and any subsequent amendments thereto will continue to apply to the Northern Mariana Islands when the Covenant takes effect. Under the Commonwealth the people of the Northern Marianas will not lose any rights to compensation which they are entitled to under the present Micronesian Claims Act or any amendment to this Act which may be introduced and passed by the United States Congress. Clearly the future Commonwealth Government of the Northern Mariana Islands will be free on its own to petition and pursue the just settlement of all war claims in the interest of its citizens with agencies of the Federal Government including the U.S. Congress.

3. Eminent Domain. As a fundamental attribute of sovereignty, eminent domain must extend to all territories under the domain of the United States. However, the Covenant fully recognizes the great importance of land to the people of the Northern Marianas and specific provisions have been included in the Covenant to protect the interests of the people of the Northern Marianas in preserving their ownership and control over their private and their public lands. The title to all public lands in the Northern Marianas is being returned to the people of the Northern Marianas. Some of this public land will then be leased to the United States to meet current and future defense needs as provided for by the terms of the Covenant. The United States has stated that it has no plans to acquire any property for defense purposes in addition to that covered by the negotiated land arrangements in the Covenant. Furthermore, the U.S. has undertaken a formal commitment in the Covenant that if in the future it has need for land in the Northern Marianas for public purposes it will seek to acquire the rights to such land by voluntary means and in accordance with established laws and procedures. The right of eminent domain which all governments have would be exercised only if all other methods had failed and in such cases acquisition would be fully subject to the due process of law, to the safeguards written into the Covenant and to the specific approval of the Congress of the United States. The eminent domain powers of the United States in the Northern Marianas will be no greater than they are in the states and territories of the Union. The language of the Covenant was carefully designed to give the Northern Marianas maximum protection against their private and public lands being taken by condemnation or arbitrary action on the part of the Federal Government.

4. Guaranteed Job Preference. It would be neither proper nor feasible for the Covenant to attempt to guarantee job preferences for the people of the Northern Marianas. However, in certain areas where

special skills are required the new Government of the Commonwealth of the Northern Mariana Islands could establish justifiable standards and qualifications for local employment that would in a practical sense give job preference to those with, for example, a knowledge of one or more of the indigenous languages, that is, Carolinian and/or Chamorro. While such special qualifications would certainly give the citizens of the Marianas an advantage, the laws could not be applied in a manner to discriminate against American citizens from other parts of the United States if they had the same qualifications. At the same time, it should be made clear that the Covenant itself does not provide for any American citizen from another part of the United States to be given any preference for new jobs or to take any jobs away from citizens of the Northern Marianas.

5. Right To Vote For The President of the United States. This is a right which could not be bestowed by the Covenant since it would require an amendment to the U.S. Constitution. Under the Constitution, only those American citizens residing and registered to vote in one of the 50 states or in the District of Columbia are permitted to vote in presidential elections. If a U.S. citizen from the Northern Marianas were to be residing in any one of the 50 states or in Washington, D.C. he or she would have the same right to vote for the President as any other American citizen. Citizens of the United States from the 50 states and the District of Columbia permanently residing in the territories similarly do not have the right to vote in federal elections. It is possible that in the future, the Congress of the United States may propose an amendment to the Constitution which will enable all American citizens, regardless of whether they reside in a state or in a territory, to vote for the President. The history of the relation of the territories to the Federal Government has been in the continuous direction of eliminating whatever distinctions may exist with respect to the equal rights of American citizens wherever they may live under the American flag.

6. Voting Representative From the Northern Marianas To the United States Congress. Under the U.S. Constitution, voting representation in the Congress is an attribute only of full statehood. At the present time, Guam, Puerto Rico and the Virgin Islands, all territories of the United States, have representatives to the Congress but they are non-voting delegates. At the same time, the Covenant provides that the Northern Marianas will have either an appointed or elected representative in Washington who will be officially accredited and recognized by the agencies of the Federal Government. The Covenant does not preclude future discussion between the Northern Marianas and the Congress with respect to the status of the Commonwealth's representative to Washington.

7. Guaranteed Financial Support. It was not possible to write into the Covenant stronger language with respect to the financial

commitment the United States would undertake if the Commonwealth Covenant for the Northern Mariana Islands is approved by the people of the Northern Marianas and by the Congress of the United States. The language of the Covenant signed on February 15, 1975 states that approval by the United States Congress will constitute a commitment and pledge of the full faith and credit of the United States for the payment on an annual basis of all the monies called for in Article VII of the Commonwealth Covenant. By approving the Covenant the Congress of the United States will at the same time be authorizing the payment of the guaranteed annual levels of direct grant assistance as called for by the Covenant. In addition to the guaranteed levels of grant funds to be made available annually for the new Government of the Commonwealth of the Northern Mariana Islands for local government operations and services, for roads, schools, hospitals, and for loans for small businesses, farmers and fishermen, and for general economic development, the United States will also provide over and above this grant assistance the full range of Federal programs and services to the Northern Marianas available to the territories of the United States. This would include such items as social security, health and medical care, housing assistance, child welfare programs, educational grants, and numerous other services and benefits to individuals and to the Commonwealth government and the municipal governments in the Northern Marianas.

8. Guarantee That Carolinians May Own or Purchase Land in the Northern Marianas. The existing Covenant language is sufficiently protective of the rights of the Carolinians since it was clearly the intention of the drafters that persons of Northern Marianas descent includes those of Carolinian as well as Chamorro ancestry. Under the Covenant "persons of Northern Marianas descent" whether Carolinian or Chamorro will have equal rights with respect to the purchase and ownership of land. The language of the Covenant was deliberately designed to afford both Carolinian and Chamorros maximum protection against the loss of their land to persons of non-Northern Marianas ancestry. Both Chamorros and Carolinians will enjoy equal rights with respect to land ownership. Under the Covenant and the U.S. Constitution Carolinians and Chamorros will be guaranteed the full protection of the law and access to the courts if their equal rights to land ownership are denied to them or if in any way they are discriminated against with respect to land ownership. After twenty-five years the provisions protecting the lands from alienation will continue unless otherwise modified by the then existing Government of the Commonwealth of the Northern Mariana Islands. If after twenty-five years the people of the Northern Marianas wish to continue in force this policy of limiting the ownership of land in the Northern Marianas to only those people of Northern Marianas descent (Chamorros and Carolinians), the Covenant provides that the people through their government will have the power to continue the policy of non-alienation of land in the Northern Marianas.

9. The Supreme Law of the Land and Limitations on United States Constitutional Powers. While the Constitution of the U.S. and Federal laws and treaties applicable to all states and territories are supreme wherever the American flag flies, within this framework the Northern Mariana Islands are assured of maximum self-government under their own Constitution. The Covenant as written places substantial limitations on the exercise of U.S. powers in the Northern Marianas. The citizens of the Northern Marianas Commonwealth will elect their own government and that government will be empowered to enact the laws of the Northern Marianas. Local courts and local judges will also be established and appointed or elected and they will have jurisdiction over cases arising under local law. The Covenant, if approved, will limit the powers of the Congress of the United States in the exercise of its plenary powers with respect to amending those provisions of the Covenant that guarantee self-government. The constitutions and charters of all state governments under the Federal Union cannot be in conflict with the Constitution of the United States. This will also be true of the future Constitution of the Northern Marianas. However, the Constitution of the United States and the precedents and practices of the United States Congress promote and protect the rights of self-government within the American political system. Finally special provisions have been included in the Covenant to assure that in the future arbitrary actions cannot be taken by the Federal Government to modify or lessen the powers of local self-government without the consent of the people and the future Government of the Commonwealth of the Northern Mariana Islands.

10. Land Lease Prices and the Length of the Leases. The sum of \$19,520,600 which the United States will pay for the leases of Northern Marianas land to be used and reserved for defense purposes was agreed upon only after both sides had studied the matter thoroughly and only after careful consideration of the views and recommendations of real estate experts and land appraisers regarding the fair market value of the lands in question. In considering the financial returns and the benefits to the future Commonwealth Government and to the people of the land arrangements a number of factors must be kept in mind. First, the money will be paid in one lump sum and if the principal is kept intact it could earn interest and dividends up to \$2,000,000 per year for the Northern Marianas. Second, the United States Government has already paid for use and occupancy right to approximately one third of the land covered by the Covenant and this money which is in the Saipan trust fund will continue to be available for purposes benefitting the people of the Northern Marianas. Third, the United States Government is returning some 4,790 acres of military retention land to the people of the Northern Marianas for public purposes. This includes the new international airport and the Tanapag Harbor area. Fourth, of the lands to be leased some 6,458 acres will be leased back for a nominal sum (one dollar per acre) to the future government which in turn can sub-lease the land and thus derive

substantial added income from this land for the government and the people of the Northern Marianas. Finally the United States will be paying for the leasing of land which will be then set aside for a public park for the people of the Northern Marianas for recreational and cultural purposes and programs. To attach a simple average dollar per acre figure to the payment for leased land on Tinian, Saipan and Farallon de Medinilla without distinction as to the different values of the land concerned, without considering prior payments, without considering the income to be derived from the capital sum to be paid, without taking into account the high potential income for the future Northern Marianas Government which can be derived from the military retention lands to be returned and from those to be leased back at a nominal sum is an unfortunate distortion of the true situation and the true benefits, financial and otherwise, that will accrue to the government and the people of the Northern Mariana Islands as a result of the carefully negotiated land provisions in the Covenant.

11. Limiting Other United States Citizens From Establishing Permanent Residence in the Mariana Islands. Under the Commonwealth relationship American citizens would have the right to reside in the Marianas, just as people of the Marianas who have become United States citizens would have the right to reside anywhere under the American flag without restriction. Other U.S. citizens moving to the Commonwealth would not however have the right to buy land in the Commonwealth for temporary or permanent residencies. As set forth above, only persons of Northern Marianas descent--Carolinan and Chamorro--may own land in the Northern Mariana Islands. This factor could inhibit those who do not qualify for land ownership from thinking in terms of permanent residence in the Northern Mariana Islands.

12. Unilateral Termination. The people and the elected municipal and district governments of the Northern Marianas have been asking for political union with the United States for more than twenty years. The mandate given the MPSC was to negotiate a close and enduring relationship in political union with the United States. The recently concluded negotiations were therefore conducted to this end. Clearly the principle of unilateral termination is inconsistent with the kind of political relationship that was being sought by the Northern Marianas and its inclusion in the Commonwealth Covenant would have been unacceptable to the United States. The U.S. could not have agreed to bringing the Northern Marianas into the American family and extending the benefits of American citizenship to the Northern Marianas if anything other than an enduring association were being contemplated.

13. Covenant to be Approved by Two-Thirds Vote Rather Than 55 Percent. In no area under Trusteeship where a plebiscite was held

was the political future of the area determined by more than a simple majority vote. The MPSC and the United States, however, agreed that the plebiscite vote in the Northern Marianas should be decided by more than a simple majority of 50 percent plus one and set 55 percent as the minimum for approval because of the great importance of the decision to be taken. On the other hand it was agreed that one third of the people voting should not be allowed to deny a large majority their democratic right to determine the future political status of the Northern Marianas.

Sincerely yours,

Ambassador F. Haydn Williams  
The President's Personal Representative  
for Micronesian Status Negotiations

Typed by Status LNO Saipan

026764