

Handwritten: The Mariana people a copy of this memo. (HW) 03/5 605 Chron

October 1, 1975

MEMORANDUM

To: Ambassador F. Haydn Williams
Thru: Charles A. Schmitz
From: Adrian de Graffenried *adg*
Subj: Environmental Protection Laws, Friends of the Earth proposals

This memorandum is in response to your request that I review the September 15, 1975 letter by the Friends of the Earth to members of the Senate and Staff (see attached). The Friends' letter suggests that the Covenant should be amended so as to specifically apply to the Mariana Islands major pieces of environmental legislation. The Friends propose that a new subsection be included in Section 502 that would list a number of federal environmental laws to be specifically extended to the new Commonwealth.

One act cited by the Friends--Pollution Control in Navigable Water (33 U.S.C. 1251-1376)--currently applies to the Trust Territory of the Pacific Islands. The act would continue to apply to the Northern Mariana Islands under the terms of Section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. As regards the applicability of other federal environmental protection laws listed in the September letter, it should be noted the Covenant did not attempt to specifically address specific areas of law unless unusual circumstances required so as to assure that there was no immediate adverse effect on the Mariana Islands from the application or exclusion of certain federal laws. Insofar as environmental laws are concerned, the broad language incorporated into Article I and Article V of the Covenant would extend the full range of environmental laws which the Friends of the Earth wish to specifically apply. Section 502(a)(2) would extend to the Mariana Islands those federal environmental protection laws that now apply to Guam and which are of general application to the several States. Environmental laws not extended under this section may be specifically extended to the Mariana Islands by the U.S. Congress under the terms of Section 105 by amending those laws to include the Mariana Islands by name. Section 105, read together with Section 502, thus obviates the need to specifically amend the Covenant.

The Congress should be counseled, however, against extending all U.S. environmental laws to the NMI under Section 105. Many of the statutes would be inappropriate until the NMI becomes a U.S. territory. The terms of the Covenant are clear that U.S. sovereignty will not extend to the Mariana Islands until termination of the Trusteeship Agreement. Many of the environmental statutes to be applied to the Mariana Islands by the Friends of the Earth reflect an extension of U.S. sovereignty, e.g. the National Environmental Policy Act, 42 U.S.C. 4321-47; the Fisheries Zone Contiguous to Territorial Sea of the U.S., 16 U.S.C. 1091-4. For similar reasons, these statutes are not now applied to the Trust Territory of which the Mariana Islands is a part.

It should also be noted that the Covenant is the basic document which outlines the future legal and political relationship between the United States and the Mariana Islands. Amendments such as requested by the Friends of the Earth would require the document to be resubmitted to the Mariana Islands District Legislature for its approval and to the people of the Northern Marianas for their ratification in another status plebiscite. This result should be avoided in this instance.

ADG/kkc/cg