

THE WHITE HOUSE

WASHINGTON

Old Executive Office Building
Room 373
Washington, D.C. 20506

January 19, 1976

The Honorable Charles H. Percy
United States Senate
4321 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chuck:

The mark-up on HJR 549, as amended, as reported by the Senate Interior Committee is scheduled for Tuesday, January 20 at 10:00 a.m. I regret that we have not been able to review together the Administration's position and your amendment as you had suggested we do at the November 20 mark-up session and again in your subsequent telephone call to me following that meeting. I am therefore taking the liberty of summarizing the Executive Branch's views as to why early full approval of the Marianas Commonwealth Covenant is desirable from several important points-of-view and to appeal to you once again to support the joint resolution which the President sent to the Congress last summer and which has already been approved by the House.

The Congress has been concerned with the future political status of the Trust Territory for many years now and as you know the separate talks with the Northern Marianas were entered into only after consultations with, and with the encouragement of the Committees of the Congress charged with the legislative responsibility for the Trust Territory. Throughout the ensuing negotiations consultations with the Congress were carried on continuously and the Marianas Covenant was not signed until it had been reviewed informally by key members of the Congress.

The views of other parties directly or indirectly concerned with the Northern Marianas were also taken into consideration prior to and during the negotiations. These consultations included discussions with the United Nations Trusteeship Council, the Congress of Micronesia's Joint Committee on Future

Status, the Government of Guam and the Guam Legislature. Throughout the United States attempted to be mindful of both its legal and moral commitments not only to the people of the Northern Marianas, but to other peoples of the Trust Territory as well and also to its international obligations.

Those who have been involved and responsible for the Administration of the Trust Territory realize what a complicated problem the future status of the wide-flung, sparsely populated and resource-poor islands is--given the realities of their history, their economy, and their great diversity. The Northern Marianas are an exception. They are small in number and the population is concentrated on three islands lying immediately north of Guam, the largest island in the Marianas group. (If all of the 14 islands in the Northern Marianas were put together, the total acreage would be smaller than Guam). All of the Marianas are united by a common language, religion and strong extended family ties. They were separated by an accident of history in 1898 and the Northern Marianas people have ever since the end of the Japanese rule sought to be united with their families on Guam under the American flag. At the same time the great majority in the Northern Marianas have little or no common interests or ties with the distant islands of the Marshalls and Carolines, the closest of which are about 500 miles from Saipan.

The special case of the Northern Marianas has been recognized for years--by the United Nations Visiting Missions and by the Trusteeship Council, by the Micronesian Joint Committee on Future Status and members of the Congress of Micronesia and by Washington Administrations and the Congress. All have accepted the sincerity of the wishes of the people of these islands to become a part of the United States--a desire which has been constant now for more than twenty-five years--and which was resoundingly reaffirmed by the plebiscite of last June.

Support for early passage of HJR 549, as amended, by the Senate comes from many quarters: the Congress of Micronesia (testimony before the Senate Foreign Relations Committee last Fall), the Guam Legislature (by unanimous resolution) from the House and Senate Interior Committees of the United States Congress, from all of the Departments of the Executive Branch of the U.S. Government which participated in the negotiations (State, Defense, Justice and Interior) and most importantly from the people of the Northern Mariana Islands

who are anxiously awaiting the outcome of the vote and hoping that the Senate will join the House in approving the Covenant and the immediate implementation of those provisions leading to full self-government. As you yourself remarked in the hearings last fall, we owe the people of the Northern Mariana Islands a prompt and clear-cut decision on their petition to join the American political family. I therefore hope that favorable action to approve the Covenant without amendment will soon be forthcoming and that this will be the recommendation of the Senate Foreign Relations Committee.

We have done our best to respond to all of the questions which have been posed by members of the Senate. We have provided your office with the answers to specific questions you asked as well as comments on Senator Hart's statements which you also requested. As we understand it, your concerns have been largely centered on: United Nations questions; the importance of the Northern Mariana Islands to United States security interests; and the relationship of Commonwealth for the Northern Marianas to the future political status of the other districts of the Trust Territory.

On the United Nations question I hope that Secretary Ingersoll's, Erwin Canham's and my testimony have satisfied you that in the opinion of the Administration, the United States is acting in full compliance with our international obligations under the United Nations Trusteeship Agreement and certainly in keeping with the underlying spirit of the United Nations Charter regarding the principle of self-determination. We have every intention of giving the peoples of the other districts of the Trust Territory the same opportunity to freely express their wishes as the people in the Northern Marianas have had. We will continue to work with the United Nations Trusteeship Council, keeping it fully informed as the negotiations on the future political status of the Carolines and Marshalls proceed. Finally as Secretary Ingersoll has said--it is the intention of the United States to seek the agreement of the U.N. Security Council for the termination of the U.S. Trusteeship simultaneously for all of the Trust Territory including the Northern Marianas--a position which has been warmly welcomed by the Trusteeship Council.

I also hope that the Administration's position on the importance of bringing these strategically located islands under U.S. sovereignty has been made clear. At the present time the United States has defense commitments for the defense of the U.S. territory of Guam and for all of the

Trust Territory, including the Northern Mariana Islands. Approval of the Covenant would neither add to nor subtract from present U.S. security commitments in the area. For the United States, the right to use the lands provided for in the Covenant (to become available only if and when the U.S. Congress in a separate action appropriates the funds for lease of such lands) will strengthen and add flexibility to the U.S. defense posture in the western Pacific--both short and long term.

Cost-wise the total acreage which the U.S. has an option to lease for 100 years for defense purposes would cost but little more than one Air Force F-15 fighter plane--a small price to pay for the present and planned use of Tinian for joint-service amphibious war exercises and the use of Farallon de Medinilla for aerial and ship to shore bombing and gunnery practice--and its ready availability to meet future contingencies. The fact that the Department of Defense has set aside plans for base construction on Tinian in no way diminishes the importance of the Northern Mariana Islands to the defense of Guam; the home of many vital U.S. military installations and activities, and to long term strategic planning in the western Pacific.

A third area of your concern seemed to center on (1) the current and future relations of the Northern Mariana Islands with the Congress of Micronesia and the other districts (2) your suggestion that in the future the people of the Northern Marianas might wish to reverse themselves and opt for remaining with Micronesia or uniting with Guam, and your belief that either alternative would be preferable to a separate Commonwealth arrangement for the Northern Marianas, and (3) your desire to defer final approval on the Covenant until the negotiations with all of Micronesia had been completed so that the Congress could look at a "whole package".

With respect to the first point the relations between the Northern Marianas and the Congress of Micronesia have improved since the plebiscite in June. The Congress of Micronesia has stated in letters to the U.S. Congress that it fully respects the popular will of the people of the Northern Marianas and the results of the Plebiscite. It now supports the early approval of the Covenant by the Senate as being in the interest of all concerned parties. It also supports early separate administration and agreement has been reached on nearly all of the substantive and procedural questions relating to a smooth and orderly separation.

The suggestion that the people of the Northern Mariana Islands should not be necessarily bound by their approval of the Covenant last June ignores the fact that the fundamental decision of the Northern Marianas to determine their political future separate from the other districts has been taken and reaffirmed time and again over the past several years and that if anything the future political status aspirations of the people of the Northern Mariana Islands and the other districts are widening with the new Micronesian constitution calling for a much more distant relationship with the United States than even envisaged by Free Association, a status which the Northern Marianas rejected outright in 1970. It should also be noted that at the time of the Plebiscite, in part to accommodate the wishes of the United Nations Trusteeship Council, no future status alternative was ruled out and the people could have rejected Commonwealth in favor of remaining with Micronesia if that had been their desire.

A month later in a Trust Territory-wide referendum, the people of the Northern Mariana Islands were given another chance to opt for unity with the other districts and again this option was rejected. Thus it seems indisputable that the Marianas people have been given ample opportunity to exercise their right of self-determination and they have spoken in an impressive and definitive fashion for Commonwealth. Nevertheless, under the terms of the Covenant, if sometime in the future the Northern Marianas were to seek a different kind of status, including union with Micronesia; the Covenant could be abrogated by mutual consent. Similarly, the Covenant does not rule out political union with Guam but it makes it clear that it too would require the mutual consent of the United States (Guam) and the Northern Marianas.

Certainly the Congress has an interest in how the negotiations turn out with the rest of the Trust Territory as well as in the results of the separate talks with the Northern Marianas. The negotiations with the Joint Committee on Future Status which have been underway since 1969 have been conducted with the full knowledge of the Congress and as in the case of the Covenant, many of the most important provisions of the draft Compact of Free Association reflect the advice of key members of the Congress. Hearings have been held on the draft Compact of Free Association in the Senate and the general pattern of the future relationship as envisaged and the responsibilities to be undertaken has been known to those in the Congress who have been directly concerned with the subject and to others who have asked about the negotiations. The

end objective is to reach an agreement as soon as practicable with the Marshalls and Carolines that will pave the way for friendly and mutually beneficial relations between these islands and the United States upon termination of the Trusteeship.

Such an agreement was reached in draft form on more than one occasion during 1974. The Congress of Micronesia in its last session last February, however, rejected the financial provisions of the Compact indicating that the sums to be provided were inadequate. Later in the year it became clear that pressure was building up in Micronesia for also reopening those basic provisions of the Compact dealing with foreign relations responsibilities and defense. Further talks were then put off at the request of the Joint Committee on Future Status while the results of a status referendum were analyzed, while the Micronesian Constitution Convention (which the U.S. proposed and largely funded) was in session and while further consideration was given to the divergence of views between the United States and the Congress of Micronesia over the Law of the Sea.

It is now clear that the draft Compact of Free Association which was initialed months before the signing of the Marianas Covenant, has been superseded by the Micronesian Constitution which was signed late last November. Without taking any position on the merits of the Micronesian Constitution which is to be put to the people for ratification, it must be pointed out that the Constitution is totally inconsistent with the understandings which formed the basis for the principal parts of the draft Compact and clearly repudiates them. In view of this development the reopening and renegotiation of the basic provisions of a future relationship between Micronesia and the United States in the post-trusteeship period appears to be inescapable, and the concept of Free Association may have to give way to an entirely new kind of relationship more compatible with the precepts of the Micronesian Constitution.

From experience this could take a long time and in fact the resumption of negotiations might have to await the ratification of the Micronesian Constitution and the formation of a new Government with the authority to negotiate an agreement, authority which the currently composed Joint Committee on Future Status does not have. In any case the United States is ready to resume the dialogue and hopes to meet with representatives of the Congress of Micronesia soon to discuss informally the impact of the new Constitution on the previously agreed draft Compact of Free Association and other relevant matters.

Clearly new consultations will also have to be undertaken with the Congress of the United States given the fundamental changes in the U.S. position which may be called for in the areas of foreign affairs, defense and financial obligations as a result of the Micronesian Constitution's treatment of the future political status issue. In this way the Congress, as in the past, will be involved in drawing up the "package" for the Carolines and the Marshalls just as it was in the case of the Marianas.

In the meantime it is hoped that Senate action on HJR 549, as amended, will clear the way for the Marianas to move ahead with their Constitutional Convention and other steps leading to self-government. By Law, the Secretary of the Interior can by Secretarial Order separate the Marianas administratively from the remainder of the Trust Territory. However, the House and Senate have made it clear that the Marianas should not be separated until the Congress has approved the Covenant. The one point five million dollars to cover the costs of transition to Commonwealth status after the Marianas have been separated from the other districts (Public Law 94-27) has already been authorized. (Which you supported).

It would appear that the "approval" referred to in Section 2 of Public Law 94-27, means "effective approval", hence the prohibition against the obligation and expenditure of funds for the Marianas Constitution and other acts of self-government would be lifted only when the Covenant becomes effective-- and as the Administration interprets your proposed amendment the effective date of approval would have to await the approval of a future status agreement or agreements for all of Micronesia. This would have the effect of precluding any positive political effects of separate administration, unless the Congress were to change PL 94-27, or unless the Secretary of the Interior were to go ahead under his own authority contrary to the known wishes of the Interior Committees of the Congress. Under any of these circumstances the problems of separate administration would be greatly compounded.

In summary, we believe that prompt approval of HJR 549, as reported by the Senate Interior Committee is highly desirable for the following reasons:

- It would constitute an important step in bringing the Trusteeship to an honorable end in accordance with the U.N. Charter and Trusteeship Agreement.

- It would enable the Northern Marianas to move ahead, in cooperation with the Congress of Micronesia with a smooth and orderly transition.

- It would clear the way for the appropriation of funds for self-government in the Northern Marianas which the Senate has already authorized pending approval of the Covenant.

- It would strengthen the chances of reaching a mutually satisfactory agreement with the other islands of the Trust Territory by resolving the uncertainty of the future status of the Northern Marianas.

- Finally, early approval of the Covenant by the Senate would be seen as a fulfillment of a moral commitment and increase the confidence and credibility of the U.S. in the Northern Marianas and throughout the Trust Territory and the Pacific.

On the other hand, a defeat or deferring final approval of the Covenant would be a great psychological let down for the people of the Northern Marianas. While they entered into the negotiations with the full knowledge that Congressional approval would be required, they have nevertheless been encouraged over the years by the strong expressions of support from members of the Congress and from visiting Congressional delegations for their aspirations to become a territory of the United States.

Defeat or postponing final approval of the Covenant would also undermine and seriously weaken pro-American political leadership in the Northern Marianas which has joined together in a common cause for Commonwealth. It would at the same time encourage and strengthen the very small but highly vocal and critical anti-American minority which strongly opposes union with the United States despite the overwhelming vote of the people for Commonwealth.

Deferral of approval or a defeat of the Covenant in the Senate would also greatly complicate and lessen the chances for a satisfactory conclusion of the negotiations with the remainder of the Trust Territory. Delaying the approval of the Covenant will not change the fundamental political fact that the political aspirations of the Marianas and the Carolines and Marshalls are growing further apart as indicated by the recently signed Micronesian Constitution. To force the Northern Marianas to continue to participate in the political processes, including the status negotiations, of the Trust

Territory as a whole, despite this divergence and the vote of nearly 80% of the people, would be awkward, disruptive and detrimental to the interests of all parties concerned.

Additionally, a defeat or an indefinite postponement of final approval of the Covenant would have a negative impact on Guam. The Guamanians would begin to question more seriously our basic political objectives in the western Pacific, and our long-term commitment to Guam and its defense. Certainly the current reassessment of the Guam-United States Federal relationship would be affected adversely especially if defeat or delay in approving the Covenant were taken as a lessening of U.S. interest and resolve to remain a Pacific power. Guam would not like to see its immediate neighboring islands, which are important to its defense, forced to become a part of a weak and unstable Micronesian entity against the will of the people of these islands or to become affiliated with another power because of rejection by the United States.

In conclusion I urge you once again to support the Administration's proposed joint resolution which has been endorsed by your colleagues on the Interior Committee. We fear that your amendment would complicate and aggravate an already delicate and sensitive situation and that as worded it would not meet your own stated objectives nor those of the Administration. In this regard I am taking the liberty of enclosing a copy of a memorandum from my Legal Adviser from the Justice Department on "Problems posed by the Percy Amendment". I believe you might also be interested in reading a message just received from Saipan from the Senior State Department representative in the Trust Territory on the approval of the Covenant and United States interests.

I will stand by to either see you or talk with you over the phone at your convenience any time before Tuesday's mark-up. Please forgive the length of this letter but I felt compelled to cover the ground that I would have if it had been possible for us to meet in person.

With respect and warmest best wishes.

Sincerely yours,

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

Enc: as indicated

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