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May 12, 1976

Memorandum

To: Acting Director of Territorial Affairs

From: Solicitor's Program Attorney
Division of General Law

Subject: Northern Mariana Islands Citizenship

In response to the question posed by your memorandum dated April 23, 1976, and those posed by the letter from Acting Resident Commissioner of the Northern Mariana Islands dated April 8, 1976, forwarded with your memorandum, we have the following comments.

Question 1. On April 1, 1976, did the authority to control citizenship vest in the Government of the Northern Mariana Islands?

The establishment of rules enabling an alien to acquire citizenship is, as noted in the above-mentioned letter, a function of the legislative authority. As likewise noted therein, the granting of citizenship is an authority vested in the executive office. Prior to April 1, 1976, the legislative authority over the Mariana Island District was vested in the Congress of Micronesia and, concurrently, the executive authority therein was held by the High Commissioner. But, effective April 1, 1976, by virtue of Secretarial Order 2969 and the amendments to Secretarial Order 2913, the above-mentioned authority was severed from the Government of the Trust Territory of the Pacific Islands and placed in the Government of the Northern Mariana Islands. Part II, Section 1 of Order No. 2969 vests the executive authority over the Northern Mariana Islands in the Resident Commissioner. Part III, Section 6 of that Order vests legislative power in the Northern Mariana Islands Legislature. The vesting of these general authorities in these offices included all subjects properly of concern to each including their respective roles in the naturalization process. Our conclusion, therefore, is that your assumption that the Government of the Northern Mariana Islands, as of April 1, 1976, had vested in it authority over matters of citizenship is accurate.

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Question 2. Would action by the Government of the Northern Mariana Islands conferring citizenship therein upon an individual make that individual a citizen of the Trust Territory? Conversely, can the Government of the Trust Territory, by action granting citizenship therein, confer upon an individual citizenship in the Northern Mariana Islands?

Our answer to each of the above questions, and the reasons therefor, are the same. The conferring of citizenship upon an individual by either of the governmental entities in question would not additionally confer upon that individual the citizenship of the other government.

It seems clear from the Covenant between the United States and the people of the Northern Mariana Islands that the Covenant was to go as far as possible toward severing the Northern Mariana Islands from the rest of the Trust Territory and toward establishing a separate governmental entity. The Acting Secretary of the Interior echoed this tone in his Orders No. 2989 and 2918 wherein were established separate executive and legislative offices for the two areas in question. Only the terms of the Trusteeship Agreement prevented the granting of full commonwealth status to the Northern Mariana Islands.

Because the intent evidenced in the current relationship of this country to the Northern Mariana Islands is to treat them as a commonwealth insofar as the Trusteeship Agreement will allow, it is our conclusion that in the matter of granting of citizenship the same approach should control. Therefore, an alien granted citizenship by the Government of the Northern Mariana Islands will not thereby become a citizen of the Trust Territory; nor can the Congress of Micronesia and the High Commissioner confer Northern Mariana Islands citizenship by virtue of granting citizenship status in the Trust Territory.

Question 3. Will persons granted citizenship by the Northern Mariana Islands Legislature be eligible for United States citizenship under the Covenant?

The question of eligibility for United States citizenship under the Covenant is controlled by Article XXI thereof. Section 111 declares three classes of persons who, upon the effective date of that section, become citizens of the United States. Among the prescribed conditions for membership in one class there is in each case a temporal condition which must be met. Unless the newly naturalized citizens of the Northern

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Mariana Islands satisfies the given time deadline, as well as the other conditions of one of the classes, he will not automatically gain United States citizenship. Each case, of course, must be examined individually and evaluated in light of the terms of the Covenant. It is, therefore, impossible to give an absolute answer to your question. It would appear, however, that the temporal limitations in Section 301 are quite rigid and that few, if any, persons who gain citizenship in the Northern Mariana Islands through action of the Legislature and the Resident Commissioner will be eligible for automatic conferral of United States citizenship under the Covenant.

Should you have further questions regarding this matter, please feel free to contact me.

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Solicitor's Program Attorney

Approved:

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