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OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS  
WASHINGTON, D.C. 20240

June 29, 1976

Memorandum

To : Jan Johnson, OTA

From : Adrian de Graffenried, Legal Advisor, OMSN

Subject : Northern Mariana Islands Eligibility for Federal Programs

You asked that I review and provide comments on Mr. Chapman's memorandum to you of June 28, 1976 on the above subject. I concur with Mr. Chapman's analysis of the Covenant and provide the following comments only for additional clarification.

By enacting HJR 549, as amended, as substantive legislation, the U.S. Congress has amended existing federal statutes to the extent that the Northern Mariana Islands is eligible for federal programs on the same basis as any other U.S. territory. Therefore, Sections 703 and 502 of the Covenant do commit the U.S. Government to extend to the Northern Mariana Islands those federal programs which are now extended to any other U.S. territory; however, several points should be clarified as they were discussed during the status negotiations.

One, Section 1003(b) provides that these programs are to extend not later than 180 days after the Northern Mariana Islands Constitution has been approved. This provision was intended to assure that before new federal programs are extended the Northern Mariana Islands would have a governmental infrastructure in place to cope with the extension of federal programs and to assure a more orderly transition for the Northern Mariana Islands into the federal system.

Two, the Northern Mariana Islands must first apply for the federal program in question in the manner as all other territories; there is to be no automatic extension of federal programs.

Three, there is a concomitant obligation on the Government of the Northern Mariana Islands to meet the requisite criteria established for each of the federal programs. For example, the Northern Mariana Islands must contribute matching funds where required, establish local organizations or program boards, prepare work plans, or create licensing authorities as the individual program requires. Consequently, each federal program must be examined on a case by case basis to determine how the federal legislation will be amended to facilitate how each executive department will extend the particular program and to establish appropriate criteria to make the program meaningful for the Northern Mariana Islands. In this regard, the Northern Mariana Islands and the U.S. Government have established a Joint Transition Commission to examine the federal programs now extended to the territories and determine which are most appropriate for the Northern

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Mariana Islands at this stage in its social, governmental and economic development. As we have discussed over the past two years, action at the federal level is needed to provide additional coordination.

A handwritten signature in cursive script, appearing to read "Adrian".

Adrian de Graffenried

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

June 28, 1976

DGL-T: CBC 113051

Memorandum

To: Acting Director of Territorial Affairs

From: Assistant Solicitor, Territories  
Division of General Law

Subject: Clarification of Federal programs and services to be made available to the Northern Marianas as specified in the Covenant

By memorandum dated June 21, 1976, you have asked a series of questions regarding the interpretation of the Covenant as it relates to Federal programs and services to be made available to the Northern Mariana Islands. You wish to provide the answers to Resident Commissioner Canham, the Acting High Commissioner, the Committee on Transition, the Commission on Federal Laws, and the Secretary's Committee on Interagency Territorial Assistance. In view of this fact, I believe that it would be more helpful to give a general explanation of the problems encompassed by your questions than it would be to provide answers to the questions as postulated.

Basically, section 703(a) of the Covenant commits the United States to make available to the Northern Mariana Islands the full range of Federal programs and services available to the territories of the United States. This section restates and expands the commitment contained in section 502(a) (1) which makes applicable in the Northern Mariana Islands the laws of the United States providing for Federal financial assistance and services and the Federal banking laws as they apply to Guam; section 228 of Title II and Title XVI of the Social Security Act; the Public Health Service Act as it applies in the Virgin Islands; and the Micronesian Claims Act. Thus, section 703(a) requires the United States to make available in addition to these services and programs made applicable by section 502(a)(1), all other Federal programs and services available to American Samoa, Guam, the Virgin Islands and Puerto Rico. These programs and services include but are not necessarily limited to public health and welfare, education, public services, employment, and economic development. Thus, the Northern Mariana Islands will be eligible for such programs as those which provide funds for health maintenance organizations, for school lunch programs in areas affected by Federal activity, for grants for basic adult education, for community development as well as airport and airway development for rural electrification and telephone service assistance, for solid waste disposal, road construction assistance, for aid to small business, and for



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economic opportunity, manpower development, and other training programs.

The question as to when these various services and programs become applicable to and available in the Northern Mariana Islands is more complex. They fall into different categories:

(1) All Federal programs and services currently available to the Trust Territory of the Pacific Islands are and will remain available to the Northern Mariana Islands.

(2) Pursuant to section 1003(b) of the Covenant, section 502(a)(1) becomes effective not later than 180 days after March 24, 1976, the date the Covenant was approved and the Constitution for the Northern Mariana Islands has been approved. Upon the effective date of Section 502, the laws mentioned in subsections (a)(1), (a)(2), (a)(3) and (b) become applicable in the Northern Mariana Islands without more.

(3) Pursuant to section 1003(b), section 703(a) likewise becomes effective not later than 180 days after the approval of the Covenant and the Constitution for the Northern Mariana Islands has been approved. Unlike section 502, however, section 703 does not make laws applicable, but rather commits the United States to make available the services and programs mentioned. Thus, to the extent that laws of the United States providing for such services and programs cannot be construed as permitting the extension of their programs and services to the Northern Mariana Islands, appropriate steps will have to be taken by the United States to secure legislative amendments so that the programs and services can be made available.

Section 502(a)(3) appears to create some confusion. Basically, it states what is stated in paragraph (1) above; except that subsequent amendments of those laws will not be applicable unless the Northern Mariana Islands is specifically mentioned. The anomaly, of course, is that the Northern Mariana Islands are still a part of the Trust Territory and will remain so until the Trusteeship Agreement is terminated. Accordingly, the law is as stated in paragraph (1) above, and not as might be implied from reading paragraph 502(a)(3); namely, that those laws now applicable to the Trust Territory will not become applicable for possibly up to 180 days from the date of the approval of the Covenant and the Constitution for the Northern Mariana Islands. I am confident that such a potential hiatus in the applicability of Federal services and programs in the Northern Mariana Islands already available in the Trust Territory was not intended.

Questions have also been raised as to whether the Northern Mariana Islands will qualify as a "State Agency" within the meaning of legislation authorizing grants of aid or assistance to "State Agencies" which include within their respective definitions the "Trust Territory of the Pacific Islands" as a "State Agency." The answer is in the affirmative. The Northern

Mariana Islands will have to establish the necessary political sub-structures to qualify for the respective programs and services sought; but, aside from that, they will qualify for their proportionate share of the benefits authorized for the entire Trust Territory.

Please let me know if I can be of further assistance.

*C. Brewster Chapman, Jr.*

C. Brewster Chapman, Jr.

Enclosures (ret'd.)

1. OMSN Fifth & Final Sess (2d part)
2. Marianas Pol Status Comm - Sec by Sec  
Analysis of the Cov
3. Hearing Before The Subcommittee on Terr  
& Insular Affairs - H.J. Res. 549, 550  
& 547

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