



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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November 23, 1977

Memorandum

To: Director of Territorial Affairs
From: Assistant Solicitor, Territories
Subject: Status of U.S. Citizens in the Northern Mariana Islands after January 9, 1978

Resident Commissioner Canham advises that his Attorney General has ruled that after January 9, 1978, U.S. citizens will no longer be considered foreign and subject to the provisions of the Foreign Investors Act in the Marianas. He wants to know if we agree.

Before answering this question finally it will be necessary for us to have a copy of the Attorney General's opinion and a copy of the Act he relies on.

If the Act he refers to is the Foreign Investors Business Permit Act, as amended, I have trouble in reaching the same conclusion as the Attorney General. That Act which is a law of the Trust Territory, applies to "any person who is not a Trust Territory citizen."

Section 505 of the Covenant provides for the continued application of TITI laws (such as the Act in question) to the Northern Marianas "until and unless altered by the Government of the Northern Mariana Islands." Section 505 does not become effective, however, until January 9, 1978. Accordingly, I assume that the TITI Foreign Investors Business Permit Act has not yet been altered. See, also, Section 6(b) of Secretarial Order No. 2989. This assumption is further reinforced by Section 2 of the Schedule on Transitional Matters of the Constitution of the Northern Mariana Islands which continues in force the laws applicable to the Northern Mariana Islands on the day preceding the effective date of the Constitution until they expire, are amended or repealed.

Thus, under the assumption that we are dealing with the Foreign Investors Business Permit Act contained in Title 33 of the T.T. Code, I can find nothing, either in the Covenant or in the Constitution of the Northern Mariana Islands that would make a U.S. citizen a Trust

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Territory citizen so as to render the requirements of the Act inapplicable to him in the Northern Mariana Islands.

Another question which Resident Commissioner Canham raises in his telegram which you do not mention in your memorandum to me but which nevertheless warrants attention is the effect of the privileges and immunities provisions of Section 304 of the Covenant on the immigration status of residents (citizens) of the Northern Mariana Islands. This same question was raised by Congressman Burton with NMI delegate Edward DGL Pangelinan who, in turn, raised it with me earlier this month. For your information I am enclosing a copy of a memorandum on the subject which was prepared for me by a staff attorney in this office. He concludes, and I agree, that Section 304 does not affect the operation of the U.S. Immigration laws on residents of the NMI.

Should the opinion of the NMI Attorney General on the question of the applicability of the Foreign Investors Business Permit Act be made available, I would appreciate a chance to review it against what I have said here.

/s/

C. Brewster Chapman, Jr.

Enclosure

cc:
Div Chron (2)
Subj File
Reading File
CBChapmanJr.

SOL:GL-T:CBChapmanJr:vph:11/23/77:5216

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