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December 13, 1977

Confidential

Edward DLG. Pangelinan, Esq.  
Marianas/Washington Liaison Officer  
1300 Connecticut Avenue, N. W.  
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Dear Eddie:

As you may know, on November 24 the Marianas Variety News & Views published a Micronesian News Service report that Representative Robert L. Leggett believes the Northern Marianas will not be entitled to a 200-mile fishery conservation zone until the termination of the Trusteeship Agreement. This letter discusses the context in which Mr. Leggett expressed his view and reports our office's activities with respect to this issue.

On April 13, 1976, the President approved the Fishery Conservation and Management Act, P. L. 94-265, 90 Stat. 331 (the "Act"). Section 101 of the Act provides:

"There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured."

The applicability of Section 101 to the new Commonwealth of the Northern Mariana Islands, therefore, depends on whether the Northern Marianas are a "state" for purposes of the Act. Under Section 3(21), "[t]he term 'State' means each of the several states, . . . Guam, and any other Commonwealth, territory, or possession of the United States.\*/"

Section 502 of the Covenant prescribes a standard for determining if the Northern Marianas fall within this definition. Under Section 502(a)(2), laws of the United States in effect on January 9, 1978, "applicable to Guam . . . and of general application to the several States" "will apply" to the Northern Marianas. The Act by its very terms appears to comply with this test. Mr. Leggett's contrary interpretation may derive from a fragment of the legislative history underlying the Act. Unlike the Senate bill, the measure as passed by the House of Representatives excluded the Trust Territory of the Pacific Islands from the scope of the Act. The report of the Conference Committee assembled to resolve this and other differences between the two houses adopted the approach of the House of Representatives. As the Report of the Conference Committee stated:

"The conference substitute follows the House provision and omits the Trust Territory of the Pacific Islands from the coverage of the legislation since it is operated by the United States pursuant to the terms of a trusteeship agreement with the United Nations and is not considered to be a possession of the United States." Senate Committee on Commerce, 94th Cong., 2d Sess., A Legislative History of the Fishery Conservation and Management Act of 1976, at 78 (1976).

The Northern Mariana Islands will remain part of the Trust Territory until the termination of the Trusteeship Agreement. Neither the Act itself nor its legislative history, however, manifests the intention specifically to exclude the Northern Marianas from

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\*/ The Northern Mariana Islands will not constitute a "commonwealth" -- and thus be directly covered by this legislation -- until the termination of the Trusteeship Agreement. See Covenant § 101.

the coverage of the Act, despite the simple mechanism provided by the Covenant to achieve that result.

On January 27, 1977, Representative Les AuCoin introduced H. R. 2564, which would amend the Act by, among other changes, prohibiting a vessel owned by a corporation more than 25 per cent of whose stock is held by non-United States citizens from fishing within the 200-mile zone. This bill is presently under consideration by the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, which is chaired by Mr. Leggett.

H. R. 2564 has provoked concern among the Northern Mariana Islands Legislature. In a letter to Mr. AuCoin, Senator Pedro R. Guerrero warned that the bill could adversely affect the development of a fishing industry in the Islands. Representative Phillip Burton reiterated this view in a letter to Mr. Leggett, in which he also expressed the belief that the Act will apply to the Northern Marianas beginning January 9, 1978. Replying to Mr. Burton, Mr. Leggett sought to alleviate some of his reservations regarding H. R. 2564 by opining that the Act -- and therefore an amendment to the Act -- would not apply to the Northern Marianas until the termination of the Trusteeship Agreement in 1981.

I met with Pat Krause on December 1 to discuss this problem. Although we reached no conclusions, we did identify several possible approaches, ranging from the adoption of Mr. Leggett's interpretation of the Act to the inclusion of language in H. R. 2564 that allows for the special needs of the Northern Marianas while recognizing that the Act is effective within the Northern Marianas.

We should, therefore, meet as soon as is convenient after your return to Washington to formulate a position on the applicability of the Act to the Northern Marianas and, if necessary, to draft appropriate corrective language for H. R. 2564. Pat informs me that Mr. Leggett's subcommittee will not conduct hearings on this bill before January.

Copies of H. R. 2564, the correspondence described above and the Variety article are enclosed, as are copies of a letter from Mr. AuCoin to Mr. Burton and a memorandum prepared by Kenneth L. Govendo, assistant legislative counsel to the Legislature. Mr. AuCoin's letter to Mr. Burton and the exchange of correspondence between Messrs. Burton and Leggett should be treated as confidential.

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Congratulations on your election as Washington Representative. I look forward to our continued work together.

Best personal wishes.

Sincerely,

Paul S. Koffsky

Attachments

cc: Howard P. Willens, Esquire  
(with attachments)

The United States National Thanksgiving Day Foundation announced an official Thanksgiving bicentennial celebration to be held at Valley Forge, Pennsylvania in mid-December where would be public displays and readings of the proclama-

## Released Custody

inhibiting detention of a ship in the possession of the U.S. Government.

The inter-ocean trading vessel is owned by the U.S. Maritime Administration and has been on loan to the TT Government for transportation services since 1974.

The TT Government did not pay any compensation to the court, Weatherby said, adding that "We did not want to pay anything until we receive documents from Washington showing that the ship is owned by the U.S. Government.

"We insisted that Saipan Shipping post the bond and go ahead to establish proof of ownership." Washington has been cabled for the necessary documents, Weatherby said.

Saipan was represented by Don Hazlewood, a private Saipan attorney.

The vessel, now under charter to the Nauru Pacific Line, reportedly left Guam on Wednesday (Nov. 23) en route to Australia.

## Rosenblatt TT

the local leadership. He will also hold discussions with TT Government and Northern Marianas Government officials during his stay on Saipan, Bennett said.

The Ambassador will be accompanied by Col. Roger Crump of the Office of Micronesian Status Negotiations, Washington C.

the 50 states, the Trust Territory, the Northern Marianas, American Samoa, Guam, the Virgin Islands and Puerto Rico.

According to the Resident Commissioner, November 24, 1977 is the 200th anniversary of Thanksgiving Day, first proclaimed a national holiday in 1777 by the American Continental Congress.

The text of the ResCom's message to the Northern Marianas and American people is as follows:

THANKSGIVING DAY, 1977, is particularly meaningful to the people of the Northern Mariana Islands. On December 10, the citizens of these beautiful islands will be voting for their first elected Governor. January 9, 1978, this Governor and other elected officials will take their oaths of office.

SAIPAN, (MNS) -- The Northern Marianas may not have a 200-mile fisheries zone until after 1981 if an influential U.S. congressman prevails with his position that the law establishing the 200-mile fisheries zone for the United States and its territories does not now apply to the Northern Marianas.

Rep. Robert L. Leggett, D-Calif., chairman of the House subcommittee on fisheries and wildlife conservation and environment, said in a Nov. 4 letter that the definition of state in the 1976 Fisheries Conservation and Management Act, which establishes the zone, does not include the Northern Marianas because it is not officially a commonwealth yet.

"It is clear that in 1981 when

these events mark the first time that an area held under United Nations Trusteeship has voluntarily chosen to become an integral part of the administering nation. The Northern Marianas were under imperial control for nearly four centuries: first the Spanish, then the Germans, then the Japanese, and finally administration by the United States under United Nations supervision. After all this domination by distant nations, the Marianas are now becoming self-governing, with democratically elected officials, but in close political integration with the United States.

THUS it is a time of especial gratitude for people emerging into their full destiny: a time of thankfulness to God for protecting and prospering these islands and leading them at last into the full identity of a Pacific island

society participating in the potential of the modern world while striving to safeguard a unique heritage.

AFTER many tribulations down through the centuries, the Marianas have found a new day of freedom. Thus, as they choose their own officials through the election process, they take the opportunity of this Thanksgiving Day to reaffirm their gratitude to God for his many blessings to them.

AS Resident Commissioner of the Government of the Northern Mariana Islands I hereby proclaim Thursday, November 24, as a Day of Thanksgiving in which the Marianas people may participate with all other states, territories, and commonwealths under the American flag in expressing with their families and in their places of worship their gratitude to God.

## Marianas Fishery Zone In 1981

the Northern Marianas officially becomes a commonwealth, the 200-mile Fisheries Zone Act will apply and a 200-mile zone will be established around the commonwealth," Leggett said in a letter to Rep. Phillip Burton, D-Calif.

Leggett's position has worried Northern Marianas leaders because it has been assumed all along that the act will apply to the Northern Marianas Jan. 9, when the constitutional government takes office.

In fact, the Commonwealth Covenant states clearly that all federal laws applicable to Guam, as the Fisheries Zone Act is, shall be applicable to the Northern Marianas when the constitution goes into effect Jan. 9, 1978.

The U.S. State and Commerce departments are taking steps to grant the Northern Marianas full membership in the Western Pacific Regional Fishery Council, one of several such councils established under the act. The departments also are taking steps to make the Northern Marianas eligible for various fishery programs provided under the act.

Several members of the Northern Marianas Legislature are now trying to block the Leggett position from being adopted as official U.S. policy.

The Northern Marianas is an observer member of the Western Pacific Regional Fishery Council, which will have its next meeting on Saipan Jan. 10 and 11, next year.