

April 15, 1976

SUBJECT: Presidential action with regard to the establishment of the "Commonwealth of the Northern Mariana Islands"

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1. On March 24, 1976, the President signed H.J. Res. 549, thereby approving the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America." (P.L. 94-241) NOTE: The Northern Mariana Islands currently make up one of the Districts of the Trust Territory of the Pacific Islands (popularly known as Micronesia), which is administered by the United States as a result of the Trusteeship Agreement between the Security Council of the U.N. and the U.S.A. (1947).
2. The new constitution for the Northern Mariana Islands will be drawn up at a local constitutional convention. It will be submitted to the President on behalf of the Government of the United States, and will be deemed to have been approved six months after its submission unless earlier approved or disapproved (Section 202 of the Covenant). Procedure for the consideration of the constitution, including the question of to what extent, if any, Congress will be involved, has not yet been determined.
3. Within 180 days of the approval of the constitution the President will proclaim an effective date for the constitution and certain provisions of the Covenant (Section 1003(b)). The Secretary of the Interior will recommend a date to the President. However, if the President finds that the effectiveness of any of the provisions of the Mariana constitution would be inconsistent with the Trusteeship Agreement, he may declare them ineffective until the termination of the Trusteeship Agreement (Section 1004(b)).
4. Target date for completion of all actions described in #2 and #3 is January 1, 1978.
5. Section 1004(a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement. This is intended to give the President some flexibility to prevent a law which otherwise might be made applicable by the formula set forth in Section 502 or otherwise, from being applicable if it would conflict with the international obligations which the U.S. undertook in the Trusteeship Agreement.

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6. Interior, through its Office of Territorial Affairs, will be contacting the White House as to its recommendations for the President's appointments to the Commission on Federal Laws (Section 504). These recommendations are not expected to be made until 6-8 months from now (perhaps around November of 1976).
  
7. The President will issue a Proclamation announcing the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands (Section 1002). The termination of the Trusteeship Agreement will affect all of the Districts of the Trust Territory, and negotiations with the other Districts as to what their political status will be after the Agreement is terminated is still continuing and not expected to be completed until 1981 or later. The Trusteeship Agreement will not be terminated until these negotiations have been completed, and the procedure by which the Agreement will be terminated has not yet been defined.

TALKING POINTS ON RESOLUTIONS APPROVING THE COVENANT OF  
THE NORTHERN MARIANA ISLANDS

The Senate Interior Committee will begin mark-up of the joint resolution approving the Covenant of the Northern Mariana Islands on Wednesday, October 1. Rather than considering the simple resolution of approval proposed by the President, the committee will be considering the House-passed resolution, H. J. Res. 549, which contains two additional sections to which the Administration is opposed on budgetary and constitutional grounds.

War Claims Provisions

Section 2 of the proposed resolution authorizes such amounts as may be necessary--in addition to previously authorized funds--to make full payments of war claims under Title II of the Micronesian Claims Act.

This provision is unwarranted at this time. In 1971, the Congress authorized \$20 million for the payment of war claims under Title II. As of June 20, 1975, the total awards made amounted to only approximately \$6.9 million. Thus, there is no certainty at this time that the remaining \$13.1 million in authorized funds will be inadequate to meet U. S. liability for the claims yet to be adjudicated.

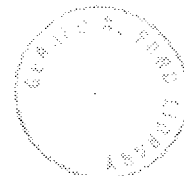
In the event it is found in the adjudication of the remaining Title II claims that additional funds are required, a recommendation will be submitted for an additional authorization of that amount.

Extension of Federal Programs

Section 3(a) of the proposed resolution authorizes the President to extend to Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and other districts of the Trust Territory of the Pacific Islands, all Federal programs providing grant, loan and loan guarantee or other assistance to States.

The Administration strongly opposes enactment of this provision on the grounds that:

-- The Federal Government already provides direct annual assistance to territorial governments through a combination of appropriations and tax and income transfers under existing statutes.



In addition, there exist some 300 programs under which territorial governments may be eligible for federal assistance. Increasing the number of sources of assistance as this provision contemplates by potentially adding as many as another 175 to 200 programs under which the territories might receive some assistance can only result in a potentially inefficient allocation of funds and higher administering costs.

-- The resolution is not the proper vehicle to legislate a blanket extension of applicable law now limited to providing federal assistance to state and local governments. Possible extension of any particular program to the territories should be considered and resolved in legislation making specific amendments to the existing program authorizations.

-- The potential budget impact of this provision is estimated to range from \$100 to \$300 million a year. These amounts compare to the roughly \$250 million of outlays in FY 74 for federal assistance to the Virgin Islands, Guam, American Samoa and the Pacific Trust Territories. The proposed potentially large increase in federal assistance would benefit a total population of only 300,000 in all four of these territories. The potential budgetary impact in regard to Puerto Rico remains unclear.

#### One House Veto

Section 3(b) of the proposed legislation provides that the President may not exercise the authority to extend a federal program to the territories if one House of Congress passes a resolution disapproving such action.

This provision is identical to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such provisions are unconstitutional.