

THE WHITE HOUSE

WASHINGTON

September 21, 1979

MEMORANDUM FOR: RUTH G. VAN CLEVE, Director  
Office of Territorial Affairs  
Department of Interior

FROM: JEFFREY L. FARROW *JLF*  
Domestic Policy Staff

SUBJECT: Application of the Fisheries Conservation  
and Management Act to the Northern Mariana  
Islands

Thank you for sending me a copy of your letter to Congressman Won Pat concerning problems with the application of the Fisheries Conservation and Management Act to the Northern Mariana Islands.

As you know, I agree that the preferable way to fully resolve this problem is through a legislative solution that will encompass all of the Pacific territories. I have, therefore, suggested to the Justice Department that before seeking a temporary solution for the N.M.I. problem that might irritate the political situation in Guam and American Samoa, they investigate the possibility of postponing the imperative for a Presidential proclamation while a legislative approach is attempted. This perhaps could be accomplished through a continuance of the preliminary injunction preventing enforcement of the act.

They are amenable to the suggestion and have agreed to consult with the parties involved, including the Coast Guard and the Commerce Department, and report back to me. If a continuation is felt infeasible by the agencies, I will attempt to resolve any problems.

I will advise you further as this develops.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

SEP 19 1979

Mr. Jeffrey Farrow  
Domestic Policy Staff  
The White House  
Washington, D. C. 20500

Dear Mr. Farrow:

Enclosed for your information is a copy of a letter of this date that I have sent to Congressman Won Pat concerning the fisheries controversy in the Northern Mariana Islands.

Sincerely yours,

Mrs. Ruth G. Van Cleve  
Director  
Office of Territorial Affairs

Enclosure



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

SEP 19 1979

Honorable Antonio Won Pat  
Delegate of Guam  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Won Pat:

I am writing to follow-up on a telephone conversation I had with Chris Ford of your staff on Thursday, September 13, concerning the fisheries controversy that has recently developed in the Northern Mariana Islands. I promised Mr. Ford I would write to inform you fully on the substance of the controversy, as well as on a possible solution that is currently under discussion among the various Federal agencies.

As you are aware, the U.S. Government is now the defendant in two suits filed against it in the District Court of the Northern Marianas. The plaintiffs, one of which is the Northern Marianas Government, are contending that the Fishery Conservation and Management Act (FCMA) is not applicable to the Northern Marianas, and are seeking a declaratory judgment to that effect. The U.S. Government position, however, is that the FCMA is now applicable to the Northern Marianas, and that it has been since January 9, 1978, the effective date of the pertinent section (section 502(a)(2)) of the Northern Marianas Covenant.

The fisheries controversy arose, I understand, when the M/V OLWOL, a 26-ton, Japanese-built fishing vessel owned by the Northern Marianas Government, was engaged in fishing activities in the waters around the Northern Marianas without being documented as a vessel of the United States, a violation of the FCMA. You will be interested to learn that the M/V OLWOL, was given by the Government of Japan to the Government of the Trust Territory (and then to the Northern Marianas Government) as World War II reparation under the Japan-United States Agreement of 1969.

In any event, the various Federal agencies, with the Justice Department as the lead agency, have been working on a proposal that would effectively overcome the documentation and registration problems that gave rise to the controversy in the first place, and in the process, terminate the lawsuit. The key question appears to be the use of foreign-built vessels and their authority to land fish in the Northern Marianas.

An immediate, though basically temporary, solution can be developed through a Presidential proclamation suspending until termination of the Trusteeship the application of any provision of the vessel documentation laws which has the effect of restricting the ability of Northern Marianas citizens to use foreign-built vessels owned by Northern Marianas citizens to fish in the territorial sea and the fishery conservation zone around the Northern Marianas, and to land their catches in the Northern Marianas. Any restrictive endorsement that would otherwise have been required on the use of foreign-built vessels so registered would also be void and without effect.

The Northern Marianas Covenant (section 1004) provides that the President under certain circumstances can suspend the application of United States laws as they would otherwise apply to the Northern Marianas during the remaining life of the trusteeship. Thus, this solution would need to be followed-up with legislation so as to make this relief permanent. It is my understanding that the various Federal agencies are agreed that any such legislation should be applicable to Guam and American Samoa, as well as to the post-Trusteeship Northern Marianas. Any efforts in this regard would be coordinated with you, your staff, and the territorial governments.

In my conversation with Mr. Ford, I also mentioned that I was writing to the governors of Guam and American Samoa with respect to the Northern Marianas controversy and the possibility of a Presidential proclamation on this subject. I am enclosing for your review a copy of my draft letter to Governor Calvo. An identical letter will also be sent to Governor Coleman. Before I send these letters, however, Mr. Ford and I agreed that I would speak further with him, and possibly you. We hope to do that early in the week of September 24.

If I may be of further assistance, please let me know.

Sincerely yours,

RUTH G. VAN CLEVE

Mrs. Ruth G. Van Cleve  
Director  
Office of Territorial Affairs

Enclosure

cc: Congressman Phillip Burton

Honorable Antonio Won Pat

-2-

An immediate, though basically temporary, solution can be developed through a Presidential proclamation suspending until termination of the Trusteeship the application of any provision of the vessel documentation laws which has the effect of restricting the ability of Northern Marianas citizens to use foreign-built vessels owned by Northern Marianas citizens to fish in the territorial sea and the fishery conservation zone around the Northern Marianas, and to land their catches in the Northern Marianas. Any restrictive endorsement that would otherwise have been required on the use of foreign-built vessels so registered would also be void and without effect.

The Northern Marianas Covenant (section 1004) provides that the President under certain circumstances can suspend the application of United States laws as they would otherwise apply to the Northern Marianas during the remaining life of the trusteeship. Thus, this solution would need to be followed-up with legislation so as to make this relief permanent. It is my understanding that the various Federal agencies are agreed that any such legislation should be applicable to Guam and American Samoa, as well as to the post-Trusteeship Northern Marianas. Any efforts in this regard would be coordinated with you, your staff, and the territorial governments.

In my conversation with Mr. Ford, I also mentioned that I was writing to the governors of Guam and American Samoa with respect to the Northern Marianas controversy and the possibility of a Presidential proclamation on this subject. I am enclosing for your review a copy of my draft letter to Governor Calvo. An identical letter will also be sent to Governor Coleman. Before I send these letters, however, Mr. Ford and I agreed that I would speak further with him, and possibly you. We hope to do that early in the week of September 24.

If I may be of further assistance, please let me know.

Sincerely yours,

RUTH G. VAN CLEVE

Mrs. Ruth G. Van Cleve  
Director  
Office of Territorial Affairs

Enclosure

cc: Congressman Phillip Burton

DRAFT

9/17/79

Hon. Paul M. Calvo  
Governor of Guam  
Agana, Guam 96910

Dear Governor Calvo:

As you are undoubtedly aware, a controversy has developed in the Northern Mariana Islands concerning the application of the Fishery Conservation and Management Act, other Acts relating to the fisheries, and Acts concerning the use of foreign-built vessels. The controversy stems from the use of the M/V OLWOL, a vessel given as reparation to the Government of the Northern Mariana Islands by the Government of Japan under Title I of the Micronesian Claims Act. The recent controversy has resulted in two suits filed against the United States.

The various agencies of the Federal Government, including the Justice Department, have been working on a proposal that would effectively overcome the problems that gave rise to the controversy in the first place. The key question appears to be the use of foreign-built fishing vessels and their authority to land fish in the Northern Mariana Islands. Because of a unique provision in the Northern Marianas Covenant, an immediate but temporary solution could be developed through a Presidential proclamation suspending the application to the Northern Mariana Islands of those laws forbidding the use of foreign-built vessels in the fisheries. The President's authority to suspend Federal laws will lapse with the termination of the Trusteeship, and therefore this immediate solution would need to be followed by legislation so as to make this relief permanent. It is generally agreed by the various Federal agencies that any such legislation should be applicable to Guam and American Samoa.

DRAFT

# DRAFT

Since the details are being worked out, I cannot provide them to you at this time. We shall do so, of course, as soon as possible. In the meantime, I wanted to alert you to what is going on in the Northern Mariana Islands. We do not want you to be surprised or to misconstrue any solution proposed by the Government as either discriminatory against Guam and Samoa or ignoring the interests of Guam and Samoa in developing their fisheries resources.

The Covenant for the Northern Mariana Islands provides that the President under certain circumstances can suspend the application of United States laws as they would otherwise apply to the Northern Marianas during the remaining life of the trusteeship. In brief, we are considering, at the request of the Justice Department, the possibility of issuing a proclamation suspending those laws that prohibit the use of a foreign-built fishing vessel in Northern Mariana waters. In drafting the follow-on legislation we will consult with you so that the needs of your area for similar treatment will be fully considered.

Sincerely yours,

Mrs. Ruth G. Van Cleve  
Director  
Office of Territorial Affairs

NOTE: Identical letter sent to: Hon. Peter T. Coleman  
Governor of American Samoa  
Pago Pago, American Samoa 96799

# DRAFT

---