

THE WHITE HOUSE

WASHINGTON

September 28, 1979

MEMORANDUM FOR STU EIZENSTAT

FROM: JEFFREY FARROW

J.F.

SUBJECT: Northern Mariana Islands fishing controversy

In July the President received a letter from Governor Carlos Camacho of the Commonwealth of the Northern Mariana Islands (N.M.I.) requesting a proclamation suspending the application of the Fishery Conservation and Management Act (FCMA) from the N.M.I.

His reasons were good. They were also applicable to Guam and American Samoa. This had been noted by the Territorial Policy Task Force which has included an option for a comprehensive solution in one of its draft reports.

Essentially, the complaint is that the FCMA disallows the use of foreign-built vessels over five tons for fishing between the three and 200 mile limits. Since the cost of U.S. vessels is prohibitive-- especially in light of the distance of the territories from the mainland -- this law has curtailed the growth of the fishing industry-- which is the greatest potential industry in these otherwise natural resource poor areas.

The situation was made somewhat absurd when the U.S. prevented the use of a 26 ton Japanese built vessel. The N.M.I. Government owned ship was given to the U.S. by Japan for war reparations and used for fishing training.

A temporary solution applicable to the N.M.I. alone would be to have the President suspend the FCMA for the remainder of the Trust Territory trusteeship (the N.M.I. is still a part and does not fully become a U.S. territory until termination of the trusteeship.)

That is what Justice proposed to do in response to N.M.I. lawsuits on the issue. However, in providing temporary relief for the N.M.I., that solution would exacerbate the problem in the other areas. They believe they are treated less favorably than the post World War Two acquired Trust Territory although they have been full U.S. territories for many years. This belief is encouraging the status talks movement.

This contention was stressed to me by Guam Congressman Tony Won Pat who chairs the House Pacific Affairs Subcommittee. I have also been called by Phil Burton's office. Won Pat caught wind of the Justice proposal and proposes instead legislation to exempt all of the areas from Coast Guard documentation. There are a couple of possible vehicles for such an amendment now on their way to approval by Congress.

I have called Bruce Rashkow at Justice to explore the issue. My suggestion was that they investigate the possibility of postponing the imperative for a proclamation for the N.M.I. while a comprehensive legislative approach is attempted. I said that this perhaps could be accomplished through a continuation of a preliminary injunction issued in August preventing enforcement of the FCMA. Bruce agreed to advise me if there was a problem with that approach.

He informed me Tuesday that it would be helpful in the case of the war reparations vessel suit but not two others and requested that I call a meeting of all agencies concerned (Justice, Customs, Interior, Coast Guard, State and NOAA). The meeting would be to reach a consensus as to whether the proclamation should be issued and what a comprehensive legislative solution would be.

I have such a meeting scheduled for Tuesday.