



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

December 6, 1979

Address Reply to the
Division Indicated
and Refer to Initials and Number

BCR:EY
90-4-94
90-4-98
90-4-107

Mr. George R. Milner
Deputy Director
Office of Territorial Affairs
Department of the Interior
Washington, D.C.

Dear Mr. Milner:

Re: Marianas Fisheries, Inc., et al. v. Kreps;
Commonwealth of the Northern Mariana Islands
v. United States, et al; Francisco B.
Matsunaga, et al. v. Anderson, et al. --
all in D. NMI, Civil Nos. 79-031, 79-041 and
79-033.

Per the discussion in the meeting on Tuesday, December 4th, concerning the Northern Marianas at the Justice Department, I am transmitting herewith a draft of a proclamation to suspend the applicability of the vessel documentation laws insofar as they would prevent Northern Marianas citizens from using foreign-built vessels owned by them in the fisheries around the Northern Mariana Islands. The draft is similar to the one initially circulated and cleared by the various agencies in September, with the addition of a few clarifying changes to respond to comments since received, e.g. (1) addition of "citizens of the United States" to the group of persons as to which the proclamation is applicable, (2) addition of specific language to ensure that the M/V OLVOL is covered, (3) addition of the word "fishing" as a qualifier to the type of vessel the proclamation is applicable to, and (4) change of the words "contrary to" the Trusteeship Agreement to "not consonant with the objectives of" the Trusteeship Agreement.

This draft proclamation is being circulated among the agencies with the understanding that the accompanying Presidential statement would clearly explain that the

DEC 10 1979
11 00 AM '79

proclamation would only apply to the duration of the Trusteeship Agreement and that the Federal Government would seek to work with both the Northern Marianas and Cuam to achieve a more permanent solution to Fisheries development problems.

I have checked again with Jeffery Farrow, and he confirms that he thinks he can work things out with Congressman Won Pat and get the proclamation approved at the White House. He does suggest, however, that it would be desirable to expedite the comment process on the Won Pat bill so that approval of the Proclamation can be coordinated with a hopefully favorable administrative position on the objective of the Won Pat bill.

As discussed in the meeting, we need to expedite the initiation of the approval process for the proclamation. In line with this, please call me by close of business, Monday, December 10, 1979, at 633-2755, concerning whether your agency clears on the substance of the proclamation and concerning any additional language changes you may wish to suggest.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: Elizabeth Yu
Attorney, Marine Resources Section

Enclosure

cc. Steve Sanders, Dept. of Interior
Bob Bowles, Dept of Interior

APPLICATION OF CERTAIN LAWS OF THE
UNITED STATES TO THE NORTHERN
MARIANA ISLANDS

By the President of the United States
of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). Pursuant to Article 6, paragraph 2 of the Trusteeship Agreement, the United States has undertaken to promote the economic advancement and self-sufficiency of the inhabitants and to encourage the development of the fisheries of the Trust Territory of the Pacific Islands.

In accordance with those obligations, the United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241, 90 Stat. 263) pursuant to which many provisions of the laws of the United States have become applicable to the Northern Mariana Islands as of January 9, 1973. Proclamation No. 4534, Sec. 2. Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended.

Certain provisions of the vessel documentation laws of the United States, applicable to the Northern Mariana Islands, restrict the ability of citizens of the Northern Mariana Islands, citizens of the United States, and the Government of the Northern Mariana Islands to use foreign-built fishing vessels owned by

such citizens or owned or assigned to the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and land such fish in the Northern Mariana Islands. Because of the considerable distance of the Northern Mariana Islands from American shipyards and resultant high transportation costs associated with the purchase of American-built ships for use in the Northern Marianas fisheries, this result is not in accordance with the obligations assumed by the United States in the Trusteeship Agreement to provide for the economic advancement and self-sufficiency of the inhabitants and to encourage the development of the fisheries of the Northern Mariana Islands.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

1. Any provision of the vessel documentation laws of the United States which has the effect of restricting the ability of the citizens of the Northern Mariana Islands, citizens of the United States, or the Government of the Northern Mariana Islands, to use foreign-built fishing vessels owned by such citizens or owned or assigned to the Government of the Northern Mariana Islands, to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and land such fish in the Northern Mariana Islands including that part of R.S. 4132, as amended, 46 U.S.C. 11, which reads "* * * which are to engage only in trade with foreign countries, with the Islands of Guam, Tutuila, Wake,

Midway, and Kingman Reef * * *," is not in accordance with the objectives of the Trusteeship Agreement to the extent it has this effect.

2. Therefore the application of any such provision to foreign-built fishing vessels owned by Northern Marianas citizens or owned or assigned to the Government of the Northern Mariana Islands is suspended, to the extent it has the effect of restricting the ability of Northern Marianas citizens, citizens of the United States, and the Government of the Northern Mariana Islands to use such vessels to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands or land such fish in the Northern Mariana Islands, until the termination of the Trusteeship Agreement for the Former Japanese Mandated Islands in the Pacific (61 Stat. 3301). Foreign-built fishing vessels owned by Northern Marianas citizens may therefore be registered under R.S. 4132, as amended, 46 U.S.C. 11, and any restrictive endorsement upon such register, prescribed by 46 C.F.R. 67.63-9(b) pursuant to 46 U.S.C. 11, shall be void and without effect insofar as it would restrict the ability of citizens of the Northern Mariana Islands, citizens of the United States, and the Government of the Northern Mariana Islands to use foreign-built fishing vessels owned by such citizens or owned or assigned to the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and land such fish in the Northern Mariana Islands.

3. For the purposes of this proclamation, the seaward limit of the fishery conservation zone around the Northern Mariana Islands is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured,

except that to the north of the Northern Mariana Islands, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

1. 20°52'42"N., 141°20'53"E.
2. 23°02'19"N., 144°00'56"E.
3. 23°53'25"N., 145°05'59"E.

and, except that to the south of the Northern Mariana Islands, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

4. 15°43'28"N., 142°05'45"E.
5. 14°55'18"N., 143°15'29"E.
6. 14°47'43"N., 143°26'25"E.
7. 14°30'07"N., 143°51'50"E.
8. 14°11'10"N., 144°26'36"E.
9. 14°05'34"N., 144°36'47"E.
10. 13°57'14"N., 144°51'45"E.
11. 13°53'11"N., 144°59'19"E.
12. 13°51'18"N., 145°03'00"E.
13. 13°51'16"N., 145°03'05"E.
14. 13°51'00"N., 143°03'36"E.
15. 13°50'11"N., 145°06'15"E.
16. 13°49'15"N., 145°08'37"E.
17. 13°47'40"N., 145°12'31"E.
18. 13°46'00"N., 145°16'14"E.
19. 13°45'27"N., 145°17'23"E.
20. 13°41'18"N., 145°26'08"E.
21. 13°37'16"N., 145°34'33"E.
22. 13°36'23"N., 145°36'21"E.
23. 13°35'54"N., 145°37'14"E.
24. 13°16'24"N., 146°12'17"E.
25. 13°05'18"N., 146°32'02"E.
26. 13°00'17"N., 146°41'05"E.
27. 12°33'02"N., 147°29'57"E.
28. 12°14'34"N., 148°03'11"E.
29. 12°13'55"N., 148°04'31"E.

4. For the purposes of this proclamation, a "citizen of the Northern Mariana Islands" is defined as: (1) an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands; (2) a partnership, unincorporated company, or association whose members are all citizens of the Northern Mariana Islands as defined in (1) above; or (3) a corporation incorporated under the laws of the Northern Mariana Islands,

of which the president or other chief executive officer and the chairman of the board of directors are citizens of the Northern Mariana Islands as defined in (1) above and no more of its directors than a minority of the number necessary to constitute a quorum are not citizens of the Northern Mariana Islands as defined in (1) above.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of _____, in the year of our Lord
nineteen hundred _____, and of the Independence of the
United States of America the two hundred and _____.

JIMMY CARTER