



GENERAL COUNSEL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Farrow

February 5, 1980

Honorable Stuart E. Eizenstat
Domestic Policy Staff
Washington, D. C. 20500

Dear Mr. Eizenstat:

Enclosed is a proposed Executive proclamation entitled "Application of Certain Laws of the United States to the Northern Mariana Islands." It would authorize citizens of the islands to use foreign-built fishing vessels.

In accordance with the provisions of Executive order No. 11030, as amended, it was submitted to this office, along with the enclosed transmittal letter, by the Department of the Interior.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving any comments you may have concerning this proposal. It is our understanding that some representatives of your Department may have already reviewed this proposal. If you have any comments or objections they should be received no later than Friday, February 15, 1980.

Comments or inquiries may be submitted to Mr. Ronald A. Kienlen of this office (395-5600).

Sincerely,

Ronald A. Kienlen

for William M. Nichols
General Counsel

Enclosure



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

The President
The White House
Washington, D. C. 20500

Through the Director, Office of Management and Budget

Dear Mr. President:

Re: Proposed Presidential Proclamation

Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by the United States by the Joint Resolution of March 24, 1976, 90 Stat. 277, invests you with authority to find and declare in appropriate cases that the application to the Northern Mariana Islands of any provision of the Constitution or laws of the United States prior to termination of the Trusteeship Agreement for the Former Japanese Mandated Islands, 61 Stat. 3301, would be inconsistent with the Trusteeship Agreement.

Such a finding and declaration operates to suspend the application of such provision which would otherwise apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement. On behalf of all the concerned Departments, including Commerce, State, Transportation, and the Interior, I hereby request that you exercise this authority in order to suspend the provision of the United States vessel documentation laws which restricts the ability of citizens of the Northern Mariana Islands to use foreign-built, U. S. registered fishing vessels to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands.

The United States is the administering authority of the Trust Territory of the Pacific Islands pursuant to Article 2 of the Trusteeship Agreement, entered into by the United States and the Security Council of the United Nations on April 2, 1947, and approved by the United States by the Joint Resolution of July 18, 1947, 61 Stat. 397. Pursuant to Article 4 of the Trusteeship Agreement, the United States agreed to apply the objectives of the international trusteeship system,

as set forth in Article 76 of the Charter of the United Nations, to the people of the trust territory. In discharging its obligations under Article 76(b) of the Charter, the United States agreed in Article 6(2) to promote the economic advancement and self-sufficiency of the inhabitants and encourage the development of the fisheries.

The Northern Mariana Islands are a part of the Trust Territory of the Pacific Islands. On February 15, 1975, the Marianas Political Status Commission, the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States signed the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant). The Mariana Islands District Legislature and the people of the Northern Mariana Islands, voting in a plebiscite, subsequently approved the Covenant. On March 24, 1976, the United States approved the Covenant, 90 Stat. 263, 48 U.S.C. 1531 note.

Section 502(a) of the Covenant provides that, except as otherwise specified in the Covenant, United States laws applicable to Guam are to be deemed applicable to the Northern Mariana Islands as of a date to be established by proclamation. This date was proclaimed to be January 9, 1978. Proclamation No. 4534, of October 24, 1977, 42 F.R. 56593-56594.

Among the laws that became applicable to the Northern Mariana Islands on January 9, 1978, are the United States vessel documentation laws. One of those laws, 46 U.S.C. 11, permits foreign-built vessels owned by citizens of the United States to be registered. Northern Marianas citizens have been determined to qualify for treatment as citizens of the United States for purposes of the vessel documentation laws. Coast Guard Chief Counsel Opinion, June 27, 1978. However, these documentation laws also provide that the use of foreign-built vessels is limited to foreign trade and trade with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, to the exclusion of fishing in the American fisheries. Since by virtue of the Covenant these laws are applicable to the Northern Mariana Islands, they operate to prevent Northern Marianas citizens from using foreign-built vessels to fish in the waters around their islands, a situation that has newly arisen as of January 9, 1978.

The Northern Mariana Islands are located a great distance from the mainland of the United States and much closer to East Asia. The combination of higher purchase prices and greater shipping costs to the Northern Mariana Islands of vessels built in the United States, as compared with foreign-built vessels, therefore makes it uneconomical

for Northern Mariana citizens to purchase vessels built in the United States for use in the fisheries around the Northern Mariana Islands. On the average, it is estimated that the cost of a U. S.-built fishing vessel, including the cost of shipping to the Northern Mariana Islands, would be approximately twice as much to the Northern Marianas purchaser as the cost of a similar vessel built in the Far East.

Because it is uneconomical for Northern Marianas citizens to purchase vessels built in the United States for the fisheries around the Northern Mariana Islands, the provisions of the vessel documentation laws that prevent Northern Marianas citizens from using foreign-built vessels to fish in the waters around their islands may impede the development of the fisheries of the Northern Mariana Islands or hinder the economic advancement and self-sufficiency of the inhabitants of the Northern Mariana Islands. These laws are therefore not consonant with the objectives agreed to by the United States in Article 6(2) of the Trusteeship Agreement to promote the economic advancement and self-sufficiency of the inhabitants and encourage the development of the fisheries, to the extent that they prevent citizens of the Northern Mariana Islands from using foreign-built, U. S. registered vessels owned by them to fish in the waters around the Northern Mariana Islands.

The Covenant provides a mechanism whereby inconsistencies with the Trusteeship Agreement may be eliminated. Sec. 1004(a) of the Covenant 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 President finds and declares that the application of such a provision prior to termination would be inconsistent with the Trusteeship Agreement.

The Departments of Commerce, State, Transportation, and the Interior believe that the situation reviewed above justifies action by you to find and declare that the application to the Northern Mariana Islands of any provision of the United States vessel documentation laws that restricts the ability of Northern Marianas citizens to use foreign-built, U. S. registered vessels owned by them to engage in the fisheries in the waters around the Northern Mariana Islands, prior to the termination of the Trusteeship Agreement, is inconsistent with the Trusteeship Agreement to the extent that it has such an effect. The consequence of this finding and declaration will be suspension, until the termination of the Trusteeship Agreement, of the application of any provision of the United States vessel documentation laws that restricts the ability of Northern Marianas citizens to fish with foreign-built, U. S. registered vessels owned by them in the waters around the Northern Mariana Islands, to the extent it has this effect.

Pursuant to the provisions of Executive Order No. 11030, I forward herewith for your consideration a proposed presidential proclamation to accomplish this action.

The proposed proclamation applies to foreign-built vessels owned by citizens of the Northern Mariana Islands or owned by or in the custody of the Government of the Northern Mariana Islands. The language "in the custody of" is included to ensure that the M/V OLEWOL, a fishing vessel that was acquired by the Trust Territory of the Pacific Islands from Japan in lieu of war reparations and that is currently in the custody of the Government of the Northern Mariana Islands, will be able to be used in fishing.

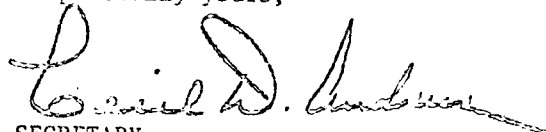
The proposed finding and declarations will apply only to the waters around the Northern Mariana Islands. This is consistent with the limited purpose of the proclamation, which is to promote the objective of development of the fisheries of the Northern Mariana Islands as has been undertaken by the United States in the Trusteeship Agreement. Moreover, the proposed finding and declaration will not suspend the requirements for vessel registration, but is tailored solely to remove a restriction on the use of the vessel, once registered.

The operative language of the proposed proclamation specifically names 46 U.S.C. 11, but ensures the suspension of any other provision of the United States vessel documentation laws that would restrict the ability of Northern Marianas citizens to use foreign-built, U. S. registered vessels owned by them in the fisheries around the Northern Mariana Islands. Paragraphs 1 and 2 of the proposed proclamation contain the proposed finding and declaration. Paragraph 3 defines the outward extent of the waters to which the proclamation would be applicable, and paragraph 4 defines "citizen of the Northern Mariana Islands" for purposes of the proclamation.

Since there are already a number of foreign-built vessels owned by Northern Marianas citizens or owned by or in the custody of the Government of the Northern Mariana Islands, which citizens of the Northern Mariana Islands wish to use in fishing in the waters around the Northern Mariana Islands, expeditious consideration of this proclamation is desirable.

I stand ready to provide any further assistance you may require. Thank you for your consideration.

Respectfully yours,


SECRETARY

Enclosure

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, 1978. 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 until the termination of that Agreement.

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 and the Government of the Northern Mariana Islands to use

foreign-built, U.S. registered fishing vessels owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and to land their catch of 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 consonant with the undertakings 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 restricts the ability of the citizens of the Northern Mariana Islands or the Government of the Northern Mariana Islands to use foreign-built, U.S. registered fishing vessels, owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands, to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and to land their catch of 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 * * *," would not be consonant 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, U.S. registered fishing vessels owned by citizens of the Northern Marianas Islands or owned by or in the custody of the Government of the Northern Mariana Islands is suspended to the extent it is inconsistent as described in Section 1. above 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 citizens of the Northern Mariana Islands or owned by or in the custody of the Government of the Northern Mariana Islands 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 without effect insofar as it would restrict the ability of citizens of the Northern Mariana Islands or the Government of the Northern Mariana Islands to use foreign-built, U.S. registered fishing vessels owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and to land their catch of 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°05'43"E.
5. 14°55'18"N., 143°15'29"E.
6. 14°47'43"N., 143°26'23"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°51'43"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°12'24"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(a) 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



Commonwealth of the Northern Mariana Islands
Office of the Governor

Saipan, Mariana Islands 96950

Cable Address:
Gov. NMIA Saipan

JUL 01 1980

Mr. Jeffery Farrow
Domestic Policy Staff
The White House
Washington, DC

Dear Mr. Farrow:

Enclosed is a copy of the Stipulated Voluntary Dismissal of our fisheries law suit. As the document indicates, my administration initiated the dismissal as a good faith effort to resolve any fishery development problems in an atmosphere of cooperation. The order was entered into without regard to the merits of the case and should not be interpreted to mean that all the issues have been resolved.

The Commonwealth still has some very basic, significant problems to overcome before the fishing industry can grow. I am encouraged by the increased communication in this area, but emphasize that without prompt and positive action by both my administration and the federal government my people will have benefited little.

Thus, I am relying on the United States Government to share our spirit of cooperation and work closely with us in the immediate future so that our marine resources industries can become self-sustaining as quickly as possible. Only in this manner can my people and the federal government gain the maximum benefits in the long run.

Hafa adai,

CARLOS S. CAMACHO
Governor

Enclosure

633 2802
Ashears

Office of the Attorney General
Commonwealth of the Northern
Mariana Islands
5th Floor, Nauru Building
Saipan, CM 96950

Telephone 6207 / 7111

Attorneys for Plaintiff

FILED
Clerk
District Court

JUN 12 1980

For The Northern Mariana Islands
By [Signature]
(Deputy Clerk)

IN THE DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE NORTHERN)	CIVIL ACTION NO. 79-041
MARIANA ISLANDS,)	
) Plaintiff,)	
))	
) vs.)	VOLUNTARY DISMISSAL
))	BY STIPULATION
UNITED STATES OF AMERICA,)	
et al.,)	
) Defendants.)	
))	

VOLUNTARY DISMISSAL BY STIPULATION

COMES NOW Plaintiff, Commonwealth of the Northern Mariana Islands, by its attorney the Office of the Attorney General, pursuant to Rule 41(a)(1)(ii) FRCP, for the purpose of voluntarily dismissing without prejudice its complaint in the above-captioned case.

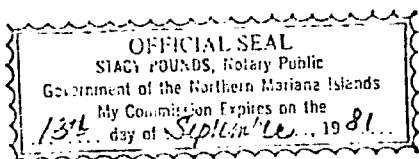
WHEREAS, the Plaintiff has been in communication with representatives of the federal government. This communication indicates a willingness by both parties to work in harmony for the development of Plaintiff's fishing industry; and

WHEREAS, representatives of the federal government have provided assurances that communication and joint effort to solve the existing problems shall continue;

NOW, THEREFORE, without reference to the relative merits of the case by either party, it is agreed and stipulated that this matter be dismissed without prejudice.

Kenneth O. Larson
KENNETH O. LARSON
Acting Attorney General
Attorney for Plaintiff

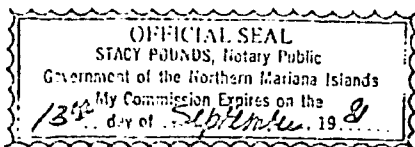
VERIFICATION: On this 12th day of June, 1980, appeared before me KENNETH O. LARSON, known to me to be the Acting Attorney General for the Commonwealth of the Northern Mariana Islands, and stated under oath that he executed the foregoing document in his official capacity for the purposes and intent contained therein.



Stacy Pounds
Notary Public in and for the
Commonwealth of the Northern
Mariana Islands

David T. Wood
DAVID T. WOOD
United States Attorney
District of the Northern
Mariana Islands
Attorney for Defendants

VERIFICATION: On this 12th day of June, 1980, appeared before me DAVID T. WOOD, known to me to be the United States Attorney for the District of the Northern Mariana Islands, and stated under oath that he executed the foregoing document in his official capacity for the purposes and intent contained therein.



Stacy Pounds
Notary Public in and for the
Commonwealth of the Northern
Mariana Islands

SO ORDERED, this 12th day of June, 1980.

(SEAL) Alfred Savitza