

12/29/79 [5]

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N. MARIANA



Commonwealth of the Northern Mariana Islands
Office of the Governor

Saipan, Mariana Islands 96950

Cable Address:
Gov. NMJ Saipan

NOV 15 1979

Honorable James Joseph
Under Secretary
Department of Interior
Washington, D.C. 20240

Dear Mr. Joseph:

I am enclosing for transmittal to the President a letter which presents the views and recommendations of the Commonwealth concerning matters raised by the Interagency Policy Review on U.S. territories and the Trust Territory, and other similar concerns.

I would very much appreciate receiving a copy of the final presentation to the President at the earliest possible date.

Once again, thank you for the time and effort you and your staff have put towards this important project.

Hafa Adai,

A handwritten signature in black ink, appearing to read "Camacho", with a horizontal line extending to the right.

CARLOS S. CAMACHO
Governor

Enclosure: as stated



Commonwealth of the Northern Mariana Islands

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NOV 15 1979

The President
White House
Washington, D.C.

Dear Mr. President:

I am delighted to enclose herewith the views and recommendations of the Government of the Commonwealth of the Northern Mariana Islands on the papers that have resulted from the Interagency Policy Review on the U.S. territories and the Trust Territory.

Although I do appreciate the many hours of hard work which the various agencies of the Federal Government put into these papers, I regret that both the process by which they were developed and the substance they contain, do not provide a useful framework to improve the relationship between the U.S. Government and the territories. Few of our comments, concerns, and corrections, submitted to the Department of the Interior in response to the draft reports of the Task Force committees were incorporated into their October 31st revision. We apparently will not be given an opportunity to comment on any further changes which might appear in the final document presented to you.

What is worse, we are now given to understand that even these present comments, and our option preferences, will only be made "reference to", rather than presented to you directly. This interception of communication between the Chief Executives of the territories and the Chief Executive of the United States is not only extremely patronizing and discourteous, but does not allow us to plead our case in our own words. It effectively insulates you from any criticism of the Task Force reports. This further serves to aggravate, rather than ameliorate, the problems that already exist.

In substance, the Task Force reports leave much to be desired. They continue to exhibit a woeful lack of understanding of the nature of the Covenant which binds the Northern Marianas and the United States together. In discarding the ill-conceived draft on economic development, they have thrown out the few good suggestions contained therein as well as several concrete proposals by the various territories which could immediately begin to enhance our development potential. Instead, the Task Force

The President
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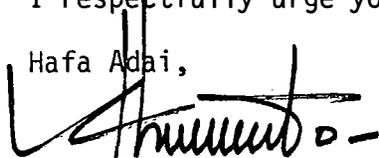
only suggests further studies which will further delay our development pending their completion and implementation. It is regrettable that the Task Force did not take the time to redo its study and provide concrete recommendations. Instead, they would sacrifice our development on the alter of self-imposed time limits and political expediency.

The Task Force seems to have lost sight of the developmental nature of territorial economies. They ask for fiscal self-reliance when this can only be achieved through private sector growth. The private sector, in turn, cannot grow in the absence of adequate economic and social infrastructure. This will require continued extra-ordinary Federal assistance in the near term and a Federal commitment to do no less for the United States' own developing territories than it does for foreign countries with similar developmental needs. Much of these infrastructure problems, of course, are the result of decades of neglect under Federal administration. We cannot be expected to take responsibility for financing what the U.S. should have been building and maintaining over the past thirty-five years.

Many of the recommendations of the Task Force represent a throwback to the mentality of another era. The increased Federal review and veto of local decision-making which they would impose is a giant step away from self-reliance. As a general rule, the territories should be subject to no greater interference than the States, particularly with respect to the Federal grants process.

If I could leave you with one thought, Mr. President, it would be that the United States, both institutionally and through its various officials, should bring an end to the age of patronization. Until then, the U.S. and its territories can never achieved a mature partnership for the fulfillment of our mutual goals and objectives. If these attitudes could be changed, and a full political partnership of mutual trust and respect could be established, this interagency review would be unnecessary. I respectfully urge you to focus your attention in that direction.

Hafa Adai,



CARLOS S. CAMACHO
Governor

Enclosure: as stated

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMENTS AND RECOMMENDATIONS

to the

PRESIDENT OF THE UNITED STATES

on the

INTERAGENCY POLICY REVIEW

U.S. TERRITORIES AND THE TRUST TERRITORY

Question No. 1 - POLITICAL DEVELOPMENT AND STATUS

Comments on Task Force Report

Although the Task Force pays lip service to the unique relationship between the Commonwealth and the United States, there is no meaningful discussion of how our Commonwealth status differs from the status of the other territories, if at all. No parallels are drawn between our situation and that of the Commonwealth of Puerto Rico. This should have been discussed.

The Task Force does not acknowledge that many of the factors in the relationship between the Northern Marianas and the United States were freely negotiated in good faith between the parties and are ours as a matter of contractual right, not because they were granted to us by anyone. For example, in the section on legal responsibilities, the report suggests that Congress has plenary power over all the territories, including the Commonwealth, and can delegate this power to the Executive Branch. This is not entirely true with respect to the Commonwealth, because of the guarantees to us and the restrictions on the United States contained in the Covenant. Our political status and its other fundamental provisions cannot be modified without our consent, and commitments by the U.S. will be enforceable by the Federal courts. Congress may indeed be able unilaterally to change the public law that contains our Covenant, but to do so would breach the Covenant itself and break faith with the Commonwealth. Our approval of the Covenant constituted a "sovereign act of self-determination". Its rupture could void that act and would violate the United States' international commitments.

The Task Force states that territorial policy is under the exclusive jurisdiction of the Congress, rather than the Executive Branch. This is no more so for the territories than any other policy issue. Congress makes policy through public laws which require the approval of the President. It is therefore entirely proper for the Executive to suggestion policy to the Congress.

Under "Territorial aspirations", the Task Force states that the Northern Marianas "show no inclination currently to modify (our relationship) substantially." This may be true, but the President should be warned that any United States attempt to modify the Covenant unilaterally could cause the Commonwealth to re-evaluate its status and could precipitate the downfall of a healthy and permanent relationship between our two entities. Also, it should be noted that the Northern Marianas share Guam's concerns regarding barriers to economic development imposed by some federal statutes, and the arbitrary and insensitive application of federal laws and regulations.

Under "National Security Objectives", the Task Force mentioned the U.S. option to lease most of the island of Tinian for military purposes. Unfortunately, there is no mention that the Northern Marianas desperately needs to know whether the United States intends to exercise its military lease option or not. We cannot adequately plan for the development of Tinian, without this knowledge.

There is a technical error in the section on self-government. The Task Force states that, "the people of the post-Trusteeship Northern Marianas (if they so choose) will be citizens of the United States".

Under the Covenant, we will become U.S. citizens automatically, but those of us born before the termination of the Trusteeship may elect to become nationals.

In discussing economic development objectives, the Task Force demonstrates an insensitivity to cultural values. It talks about, "the fullest measure of economic development" and "as much economic self-sufficiency as possible." This should be tempered with a statement suggesting that economic development "proceed at a deliberate pace consistent with cultural values and the availability of resources and infrastructure." The recent overwhelming passage of a referendum rejecting casino gambling demonstrates the commitment of our people to the protection of our culture.

To move from criticism to praise for a moment, the comments regarding health and education under "Social Development - the territories" are exceedingly well stated. We are surprised, however, that a U.S. commitment to additional financial assistance to support social development, which we praised in the first draft, was deleted from the final report.

In the discussion of Policy Question (2) regarding Senate representation for territorial delegates, it is implied that Delegates receive allowance on same basis as other members of Congress. In fact, only half the clerk-hire allowance and certain other expenses are provided. Of course, the Northern Mariana Islands Resident Representative gets none of these at all and has none of the privileges, immunities, and tax exemptions of the other Delegates.

Once again, the Task Force implies that Congress would be upset if the Executive Branch suggested any increase in territorial representation. There is no demonstrated basis for this statement. The idea would be treated with the same respect given other suggestions from the White House. Each House of Congress is still free to set its own rules regarding the activities of Delegates.

Also, a third option regarding Senate representation is needed. Option A implies that the same Delegate who serves in the House would concurrently be seated in the Senate. This is highly unlikely. In fact, the current House committee work and other duties are as much or more than any Delegate or Congressman can handle. It would be impossible for one person to be a Member of both the House and the Senate and attend meetings of both their committees, let alone be present on both Floors for debate at the same time. A new option should be considered to suggest separate representation in the Senate, under whatever rules that body might wish to apply, to serve alongside their House counterparts.

The discussion of Policy Question (3) suggests that the Executive Branch try to avoid discussions of political status. The Commonwealth is especially concerned that it is not even mentioned in Option B (formal status talks). Until such time as we might become a State of the Union, which would constitute an irrevocable act, our status, and the desires of our citizens, even possibly for independence, remain an open question. Pursuant to Section 902 of the Covenant, "Status Talks" at the Presidential level are available at any time the Governor (or the President) requests them, and not less than every ten years.

The Commonwealth recognizes that the United States has committed itself to terminate its trusteeship over the entire Trust Territory at one time. We also understand that the important status negotiations being conducted with the other Micronesian entities cannot be bound by a rigid timetable, in order that the aspirations of their people may be properly expressed and planned for. However, there is a limit to how long the already-expressed aspirations of the people of the Northern Marianas should have to await completion of the process elsewhere.

We note with concern recent reports from Washington that the Trusteeship Agreement might not be terminated until 1985, or even later. Full U.S. citizenship for our people, and the other provisions of the Commonwealth which have not yet come into force, await these developments. If the process, in fact, will be significantly delayed, the U.S. and the Commonwealth should mutually re-consider the advisability and ramifications of early termination for the Northern Marianas.

Policy Question (4) can be eliminated. As options, statehood and independence are adequately handled under Policy Question (3) on Status Talks.

In discussing possible options for Congressional representation for the Commonwealth under Policy Question (6), the Task Force rightly notes that the Northern Marianas might resist being represented by the Guam delegate "on the ground that they would be swallowed up, and lose their identity." The report should have mentioned that Guam rejected union with the Northern Marianas in 1969, and that since then political institutions have developed separately in the two entities.

In discussing the pros of Option C, no Congressional representation, the Task Force states, "There is no major effort on the part of the Northern Marianas to change its current Washington representation arrangement." Now that American Samoa has been guaranteed its seat, there is significant feeling in the Commonwealth that the current situation is very unfair. In fact, the Marianas Senate has already passed a resolution requesting Congress to grant Delegate status to our Washington representative.

A new option is needed to provide Library of Congress access for NMI and American Samoa. Until American Samoa's Delegate is seated in 1981, and until the Commonwealth is given similar Congressional representation, their Washington representatives should be granted access to all the resources of the Library of Congress, including the Congressional Research Service. All other jurisdictions have this access through their Congressional Delegation. It is a valuable resource which should not be denied to these two remaining territories. Also, the representatives should be treated like the Delegates and taxed as if they were residing in, and their income were earned in, their home jurisdiction.

RECOMMENDATIONS TO THE PRESIDENT:

The following recommendations reflect the priorities and concerns of the Commonwealth and do not necessarily correspond to similarly numbered options set out by the Task Force.

1. The President should re-affirm the commitment of the United States to abide by Section 902 of the Covenant. This section requires the United States and the Commonwealth to "consult regularly on all

matters affecting the relationship between them." Such "status talks" can be called by either government, and must take place no less than every ten years.

2. The President should acknowledge that the aspirations of the people of the Northern Mariana Islands to join in a political union with the United States, with full U.S. citizenship, cannot be expected to await forever the conclusion of status negotiations in the rest of Micronesia. He should express his willingness to consider early termination of the Trusteeship Agreement for the Northern Marianas, if the overall process will be delayed beyond a reasonable time.

3. The President should repudiate any implication in the Task Force report that the United States is not bound by the provisions of the Covenant, that it need not fulfill its commitment thereunder, or that Congress can violate the principles of self-government guaranteed therein.

4. Congressional representation for the Northern Marianas: Quite naturally, the Northern Marianas favors Option 6a which recommends that the President "announce that the same status should be given the representatives of the Northern Marianas as that which the delegates from Guam and the Virgin Islands now enjoy." To refuse such representation for the Northern Marianas would be to perpetuate an unfairness and leave us the only people within the American community who do not have a voice in the Congress to whose laws we are so often subject. Population should not be a consideration, as it was not with the decision to sit a

delegate from American Samoa. Until the representatives of the Commonwealth and of American Samoa are seated, the privileges and immunities of Delegates should be extended to them as much as practicable. Especially important are Library of Congress/Congressional Research Service access, and equitable tax treatment. We utterly reject representation by the Delegate from Guam since we would have no significant impact on the selection of such a Delegate.

We similarly support a Constitutional amendment which would grant Delegates the right to vote, particularly in the House of Representatives. We would agree, however, that such voting right should not come into effect until the citizens of the territory are generally citizens of the United States.

The Northern Marianas would welcome the opportunity to have representation in the United States Senate. We would, of course, expect to be treated equitably with the other territories and Commonwealth. It is unreasonable, however, to assume that one person can effectively represent a territory in both the House and the Senate. This option therefore should be modified to provide for separate representation in the Senate under whatever rules that body may wish to enact.

5. Voting in National Elections: The Northern Marianas subscribes to the principle that United States citizens should be able to vote in national elections regardless of their place of residence. We would expect that U.S. citizens residing in the territories would be included in any Constitutional amendment for popular election of the President and Vice-President. In the meantime, under the Electoral College system, the only solution would be a Constitutional amendment granting

territories with general U.S. citizenship some reasonable number of electoral votes. We urge the President to endorse such an amendment regardless of the likelihood of Congressional passage and ratification by the States. Support by the Executive Branch at this time would demonstrate a commitment to the peoples of the territories and make the road to full participation in American democracy easier to travel.

6. Federal Grants-In-Aid Programs: We strongly support the extension of all Federal grants-in-aid programs to territorial residents under standards and criteria determined jointly by the U.S. and each territory.

7. Commission on the Application of Federal Laws: The Commission provided for in Section 504 of the Covenant should proceed with its work as quickly and expeditiously as possible. The Commission should select its own Chairman and should spend a significant portion of its time in the Commonwealth in order to better determine the impacts of Federal laws and regulations. The President should pledge himself to seeking prompt Congressional action on the recommendations of the Commission. Until this is accomplished, there will be continual conflict between the Commonwealth and the United States on the application of Federal laws. The prompt elimination of this area of contention will go a long way to stabilizing the relationship between our two entities.

8. Military Land Use: In order that the Northern Marianas may effectively plan for the development of Tinian, the President should direct the appropriate authorities to determine, at the earliest possible

date, whether or not the U.S. will exercise its option to lease a major portion of that island for defense purposes.

Question No. 2 ECONOMIC DEVELOPMENT

Comments on Task Force Report

In its discussion of its own recommendations, this Task Force rightly notes that its previous draft did not suggest a strategy to encourage economic development in the territories. We also criticized the draft for promoting the interests and concentrating on the problems of one territory while ignoring both the advantages and problems of other territories under similar circumstances. In addition, there were many inaccuracies in the presentation and many important sectors of the economy were completely ignored.

In addition to commenting on the so-called options presented in the draft report, we recommended eight additional options. One of these on specialized assistance read as follows:

In lieu of an immediate drastic change in the means of providing Federal development assistance to the territories (such as the proposed Territorial Development Bank), the U.S. and each territory could jointly study the current stage of development and the needs of the territory and agree on an appropriate mix of financial assistance of whatever form, as well as management support and technical assistance.

We still support this approach to meet the unique needs of each Territory. However, and most unfortunately, the final Task Force report seems to have seized upon this as the only means of encouraging territorial economic development. In doing so, it has rejected the many suggestions for immediate Federal action applicable to all territories.

The development of our economy can no longer await further studies. Constraints must be removed now; programs and projects must begin now; management support and technical assistance must be provided now;

Federal attitudes and policies need to be changed now; and barriers to participation in many developmental programs available to the States must be removed now.

We have been studied to death, figuratively. A few more years of study, without implementation, and our economic death may be literal as well. The recommended studies are welcome, but they should be in addition to, not in lieu of, immediate efforts toward economic development. We can modify programs in the light of new information or strategies developed by such studies. If we wait for their outcome, however, we will continue to be unnecessarily dependent upon the United States for many additional years.

Many of the inaccuracies and innuendos complained of in the draft remain in the final report. For example, the territories are not "natural resource poor" as claimed by the Task Force. Our major resources, however, are found in the sea which surrounds us--a fact which continental writers too often lose sight of when studying insular areas.

The Task Force complains that our economies are not "viable", because we have not reached "economic self-sufficiency". Neither has the United States, nor any state thereof. We live in an interdependent world in which we can only survive by doing what we do best and improving and increasing transportation and communication with the rest of the world. We must move ahead to reduce imports and increase exports, but if balance of trade were the only test of economic viability, the U.S. would come up short as well.

In discussing the private sector, the Task Force notes that significant investment in tourism, manufacturing, or military related industry have been made in the other three territories. There is no mention of the

significant investments made in tourism in the Northern Marianas. We fail to understand why our achievements have not been included in this discussion. Perhaps the reason is that the tourism industry here is generating more revenues than the corresponding costs of the increased governmental services needed to support its development.

The Task Force continues to ignore geography by imputing locational advantages to Guam which we share in equal measure. If Guam has the potential to export melons and eels for the Japanese market, the Northern Marianas, with more arable land, has at least the same potential, if not more. If Guam's location can be used to good advantage for transshipment of merchandise and to serve as regional headquarters for companies doing business in the Pacific, our location only a few miles away offers the same potential. The Federal Government should not attempt to play off one territory against another through such implications of comparative advantage, especially when such advantage does not exist, or exists only because of inequitable treatment by the U.S. over the years.

RECOMMENDATIONS TO THE PRESIDENT

Many, many concrete and immediate steps can be taken to encourage economic development in the territories without the need for further long term studies and other delaying tactics.

1. Marine Resources. The President should declare that the United States is returning to each island territory the peoples birthright by restoring to them control of the living and non-living resources of the sea which surrounds them. No single step would go as far in the international community to dispell the view of the U.S. as a colonial

power than this simple statement. The Executive Branch should seek whatever legislative changes are necessary to accomplish this. The territories should be freed from constraints on the development of their own fishing and other marine-oriented industries. They should also be able to benefit from control over the activities of foreign interests in their surrounding waters. Legislation should be sought to accomplish this, if necessary.

As a matter of policy, the Commonwealth maintains that it already has the right to control the resources of its surrounding sea. The suggestions herein, however, would clarify this point and insure that this control continues on a permanent basis.

2. Energy. The President should proclaim that, as developing areas, the energy needs of the territories must be met in full. Waste of energy in the territories should be avoided as elsewhere, but a net reduction in the use of energy would be a negative sign that our economies are not developing, rather than a positive sign that we are conserving energy. All Federally imposed constraints against the import of fuel by the territories should be removed. Any federally imposed allocation system should provide that the full requirements of the territories be met. When such an allocation system is not in force, the President should encourage fuels suppliers to meet our needs on a voluntary basis. Particularly important is the availability of increased quantities of jet fuel to support the expansion of tourism in the territories. A crash program for alternative energy sources in the territories should be undertaken immediately. In the Northern Marianas, for example, we have abundant resources to power large-scale wind machines and solar-

thermal generators, as well as potentially large concentrations of geothermal steam resources.

3. Ports and Harbors. The President should direct appropriate Federal agencies to meet with each territory at the earliest possible date to identify and remove Federal barriers to port development and to provide Federal assistance beyond normal programmatic funding levels to bring the various ports from their present situation to the point where they can meet the economic development needs of each territory. Territories should be able to participate in Maritime Administration and other Federal port development programs, but the additional effort is needed to compensate the decades of Federal neglect of our ports.

For example, we need to completely rebuild the port of Saipan and develop related shore facilities on Tinian and Rota. The present state of affairs is a significant barrier to reaching our economic potential. We will never be able to generate the revenue needed for such projects ourselves, but their financing by the Federal Government will enhance our ability to generate revenues in the future.

4. Airports and Air Transport. Expansion of international flight frequencies and destinations is necessary if tourism is to fulfill its potential as the major contributor to private sector economic development in most of the territories. It also is necessary for market development for perishable agricultural commodities. The U.S. should therefore commit itself to freeing the territories from the usual bilateral negotiations with current and potential destination countries on the grounds that they are economically underdeveloped areas. A Presidential proclamation may be needed to accomplish this.

It is particularly important to the viability of our tourist industry that the Commonwealth be exempted from the bilateral aviation agreements between the U.S. and Japan. Although there has been a rapid increase in Japanese tourism in the Northern Marianas, the earlier Task Force draft rightly stated that it has failed "to live up to expectations". This is because not enough flights are allowed to come from other cities like Osaka and Kagoshima, and charters are not permitted. Most hotels on Saipan operate at about 50% occupancy. This is not enough to repay the loans the various hotels have outstanding. It is certainly not an inducement to additional foreign investment.

Already Continental Airlines has reduced its service to the Commonwealth. Air transportation, the key link to economic development in an isolated island chain like ours, has to be increased at this stage rather than reduced.

We imagine other territories can give similar examples. In any event, whether in or out of bilateral talks, the U.S. should re-double its efforts as a strong advocate of expansion of air transportation to and from the territories. Inter-island service is also important, both to increase the length of tourist visits and for the socio-economic integration of scattered populations.

In order to adequately and safely serve the needs of air travellers in the territories, the Federal Government should also commit itself to funding all or part of the costs of providing appropriate airport, terminal, communication, and navigation installations to meet applicable FAA standards and the appropriate levels of expected traffic on principal and other islands.

5. Regional Cooperation. The President should support the efforts of territorial governors for the creation and funding of a Title V Regional Economic Commission for the Pacific. In its discussion of Question No. 4, the Inter-agency Policy Review criticizes Title V regional organizations for emphasizing economic development, rather than coordination of all Federal and territorial programs. We totally reject this analysis. First of all, these commissions were established by Congress for this purpose. Second, our search for regional economic cooperation should not be discouraged merely because there are other areas where cooperation will be useful. We also see no reason why a Title V Regional Commission cannot, at the same time, serve as a forum for cooperation in other sectors as well. If the Federal Government persists in refusing to extend eligibility for Title V to the territories, then the President should actively encourage and provide for funding of an equivalent type of regional entity in the Pacific, to include the State of Hawaii, as well.

6. Infrastructure Development. The President should commit the United States to provide the infrastructure necessary for the economic and social development of the territories. Power, water, communications, roads, sewers, storm drains, etc., as well as the ports and air facilities mentioned above must be emplaced if the private sector is ever to be able to grow toward territorial self-reliance. It is a vicious circle: the territories are asked to develop their private sector to raise revenues for infrastructure, but the private sector cannot develop without the infrastructure being in place. Only the Federal Government has the resources to resolve this enigma. If the United States wants

the territories to ever get out from massive Federal subsidies in the future, it must invest now in infrastructure. The States don't need this level of assistance, because they are building on an established base. The territories do, because we have no significant base on which to build.

7. Education for Development. In order for economic development to succeed, there must be a trained labor and managerial force. This will require assistance beyond the regular Federal grant programs, if it will have any meaning in the next several years. Capital facilities for general and vocational education will have to be built and equipped; teacher salaries may have to be subsidized; special scholarships, loans and grants targeted to specific needs will have to be provided.

8. Marketing Assistance. The United States has a special duty to assist the territories in the marketing of their exports, including tourism. These activities will not only help the territories, but the U.S. balance of payments as well. The NMI notes with pleasure the recent announcement that the U.S. Travel Service office in Tokyo will be restored. It has been of help to us in the past and we are counting on it for the future. It should be strengthened and expanded beyond previous levels. Commercial and Economic Officers in the U.S. Embassies throughout the Pacific (and the Caribbean as well) should be instructed to advise territories and their businesses regarding market opportunities and potential investors, make credit and reputation checks, and promote our products. The Department of Commerce should also help us in the United States itself, as dollars spent on tourism and products in and from the territories remain within the U.S. sphere.

9. Agricultural Development. The United States should institute a crash program to bring the territories up to their potential in commercial agriculture. The program would have to include assistance in both the production and economic sides of the problem. In the former, appropriate cash crops and animals for small, medium, and large scale agriculture must be identified (including tropical feed grains to support a livestock and poultry industry), irrigation provided where necessary, machinery made available, and farming methods and pest control improved. On the economic side, subsistence and small-scale farmers must be educated in the demands of the twentieth century market place. They must understand the meaning of contracts, the necessity to diversify, if not individually, at least collectively. Crops must be timed to arrive at market throughout the season, not all at once. Packaging methods must be improved and chilled storage provided. Market forecasting and development must be undertaken. This is one area where the NMI can become nearly self-sufficient and even develop a significant surplus for export. We cannot do it ourselves, however, and the regular grant programs of USDA are not likely to be sufficient. In fact, some territories, including the Commonwealth, are not currently eligible to participate in several important USDA programs, including soil conservation, extension services, experiment stations, and crop insurance. The U.S. should extend these programs to cover the remaining territories.

10. Regulatory Impacts on the Territories. Often regulations and Administration policies have unintended effects in the territories which may hinder economic development. Strict adherence to the President's new targets for reduction of oil imports is an example. The President

should instruct all Departments and agencies to consider the impacts of their actions on the territories and grant waivers where necessary. He should commit the White House itself to the same policy.

11. Communication. In order to take their proper place in the world community and meet the needs and demands of modern business institutions the territories must be able to communicate with their constituent islands, with each other, with the Federal Government, and with the rest of the world. Even within the region, it is nearly impossible for us to talk with American Samoa or Nauru, for example. To accomplish this, we must have access to the world-wide system of communication satellites, with both government (Federal Telecommunications System) and commercial channels available. This would provide voice, telegraph, and facsimile capability, computer data links, and navigation aids. Also, territorial efforts to emplace or rehabilitate inter and intra-island communication should be encouraged and assisted. For example, even when internal telephone service is inaugurated on Rota in the near future, that island will still not be able to communicate with Saipan. The U.S. is funding efforts such as these in foreign countries; it should do no less for its own territories.

12. Cultural Centers. The initial Task Force draft made an excellent suggestion that cultural centers be established in each territory with Federal assistance. We fail to understand why this excellent suggestion was dropped, although we complained at the time that the Northern Marianas was the only territory not included in this proposal. We recommend that the Federal and territorial governments work together with private investors to establish such a center in each territory. As the draft

originally stated, the territories "have distinct cultures that ought to be preserved and enhanced for their intrinsic worth to the local communities and the nation, and promoted in tourism development."

13. Mass Transit. The original draft report noted that the territories had a high number of vehicles per capita and inadequate (or in our case, non-existent) public transportation system. It is recommended that the Federal Government assist territorial efforts for mass transit development. We fail to understand why mention of this important sector has been removed in the final Task Force report.

Question No. 3 - FINANCIAL ASSISTANCE

Comments on Task Force Report:

Question No. 3 asks, among other things, how the need for ad hoc subsidies to the territories can be eliminated. The Northern Marianas suggests that the President be told that the question is not so much how, but when, or under what conditions.

For thirty-five years, the effort of the Federal Government to create, expand, maintain, and rehabilitate the infrastructure in the Northern Marianas has been substantially inadequate. In many cases, we are still using facilities built by the Japanese before and during World War II. Much of the rest was designed and built for military use shortly thereafter. Successive U.S. Administrations have allowed these facilities to fall into such disrepair that they can no longer meet our needs at our present level of development, let alone build our economy.

Although we hope that Federal subsidies are a temporary necessity until the private sector can support our needs, their ad hoc nature recognizes that the various territories are at a different levels of development and that the U.S. cannot, therefore, always legislate for them as a group.

When the infrastructure which should have been built and maintained by the U.S. over the past several decades is put into place to meet our current and future economic development needs, then we can begin to talk about eliminating ad hoc subsidies, and not before. In the meantime, we cannot generate the capital needed for these purposes. In fact, we never will be able to do so until we have the infrastructure necessary

to attract and support investment. Until then we will continue to request, and expect that we will be granted, funds for hospitals, schools, roads, power plants, sewers, storm drains, water systems, harbors, airports, etc., on an ad hoc basis, when regular Federal programs are insufficient for the purpose. We should have had these years ago.

The Task Force also should have reminded the President that deficit funding is constitutionally nearly impossible for the Commonwealth. The comments which blast territories in general for seeking federal funds to cover local deficits should exclude the Northern Mariana Islands.

The Task Force includes our Covenant funds under continuing authorizations with some negative connotations. It should be noted here, as elsewhere, that these funds were agreed upon in negotiations, at least for the first seven years of our existence. They should not be considered a negative factor in any way, shape, or form.

The Covenant provides that taxes on non-Marianas source income be covered over into the Marianas treasury in the same manner that this takes place on Guam. We do not know why the Task Force suggests that this only applies to Guam and the Virgin Islands.

The comments regarding our local income tax and rebates on "mirror" taxes does not show the inter-relationship of the two. The Northern Marianas has chosen by local law to exercise its authority under Section 601 of the Covenant to rebate all of the income taxes which would be collected under the "mirror" system. In lieu thereof, it has substituted a simple graduated income tax based solely on a percentage of gross income. This law will remain in effect until the termination of the Trusteeship, and may be extended by future local legislation. In effect,

the Internal Revenue Code is used for non-territorial source income. Those who restrict their activities to the territory, have the benefits of simplified tax treatment for all their income. Those who choose to do business outside the territory can be presumed to have greater sophistication, or the means to acquire it, in order to fill out the more complicated IRS tax forms.

The Task Force report complains about "unending series of problems" in territorial income tax system. Of course, it fails to note the success of the Northern Marianas in doubling its local revenues in the first year-and-a-half of our existence. In fact, the graduated tax is expected to produce at least four times the revenue that would be realized if only the territorial tax (IRC mirror) were in effect.

What's more, we are collecting our taxes at a fantastic rate. Out of a total levy of approximately \$5 million (\$3 million income taxes, \$2 million excise taxes), only some \$12,000 remains outstanding at this time. This is less than one quarter of one per cent. We should be congratulated for our effort and not tarred with a brush that does not apply. Solutions to problems which do not exist in the Northern Marianas should not be imposed on us.

In its discussion of taxes collected by the territories, this Task Force suggests that, "the Federal Internal Revenue Code may be too complex to be effectively administered by the territorial finance department." What it fails to mention is that the Federal Internal Revenue Code may also be too complex to be appropriate for the general population of the territories.

RECOMMENDATIONS TO THE PRESIDENT:

1. The United States should recognize that the territories are developing areas and therefore will require high levels of assistance, often on an ad hoc basis, until the physical and social infrastructure necessary to support private sector development is put in place. This should carry with it an understanding that there are unavoidable minimum program costs that cannot be looked at on a per capita basis. The U.S. should indicate its understanding that the territories, in many cases, are starting from scratch. The states are building incrementally on an established base; we are building the base itself.

We therefore reject Option I, if it would substitute a matching fund for direct federal assistance. If we could still seek ad hoc assistance to meet out extraordinary developmental needs, however, the matching funds could serve as an additional incentive to increase local tax efforts. The matching funds alone is unacceptable because it is not related to the development needs of the territories.

2. Territorial Bank. The Commonwealth supports in principle the concept of a Territorial Development Bank or similar mechanism for increasing the amount of capital available in the territories for both public and private purposes. We are concerned however that the territories would suffer a significant loss of autonomy and control if loans were made directly to the private sector by an outside entity such as this. We therefore suggest that development funds for the private sector be channeled through territorial mechanisms such as local development banks. Rather than establish a territorial development bank as a

separate entity, it may be better to provide for direct territorial access to the Federal Financing Bank. The feasibility studies and technical assistance suggested by the Task Force should remain in the package, however, possibly as a new program of the U.S. Department of Commerce or other appropriate federal agency.

In no event should the establishment of a territorial development bank or similar mechanism be allowed to replace existing programs. First of all, this would mean that the Federal Government would be injecting additional capital with one mechanism and taking it away with another. There would be no net gain to the economic development efforts in the territories. Secondly, our Economic Development Loan Fund and Capital Improvement Fund are ours by right during at least the first seven years of the Covenant. They were freely negotiated and are guaranteed to us by compact and by law. We must also point out that a territorial development bank will be of little use to the Commonwealth for infrastructure development. It would require a constitutional amendment for the Commonwealth to borrow for most non-revenue infrastructure, such as roads and storm drains.

3. Block Grants. The Commonwealth would favor a single block grant to the territories in lieu of programmatic grants-in-aid. However, this should not be based on historical funding levels. It makes no sense to penalize the territories for lack of earlier grantmanship. Similarly, we have not been able to take advantage of many programs for which we are eligible, because our economy is not yet sufficiently developed or because we do not have the technical and managerial expertise

to implement such programs. A single block grant would only be acceptable to the Northern Marianas if it is a reflection of the total of the funds for which we would be eligible on a categorical basis. In effect, this would be a massive consolidation of Federal grants by all agencies, which would allow us to determine priorities locally and eliminate the need for much of the ad hoc funding which would otherwise be necessary.

4. Increased Federal Oversight. We categorically reject Option 4 as a throw-back to colonialism which is unacceptable to the Commonwealth and would be an embarrassment to the United States and the international community.

5. Income Taxes. We reject all of the options suggested by the Task Force report. We prefer to continue with the present system guaranteed to us by the Covenant. We are not having the problems with our income tax system suggested by the report; we appreciate that we may voluntarily seek the assistance of the Internal Revenue System in administering our tax laws; we believe that the Internal Revenue Code is unnecessarily complex for the States, let alone the territories; we believe that all residents of the Northern Marianas should be taxed in the same manner, without discrimination on the basis of citizenship or place of birth; and we see no reason for the Federal Government to interfere with our ongoing successful efforts. The President should reaffirm the commitment of the United States to abide by the provisions of Article VI of the Covenant.

6. Release of Federal Funds. The U.S. should revise the present inappropriate timing of the release of Federal funds to the territories. For example, the Northern Marianas is entitled to \$14 million per year

as a negotiated payment under the Covenant. This figure is adjusted for inflation, it is only past inflation that is considered. Therefore, as the year goes by, the Covenant funds become relatively less valuable to the Commonwealth. To maintain the earning power of those dollars, we need to have them allotted to us at the beginning of the year and put to work at interest. This would roughly keep up with current inflation. The U.S. Treasury Department, however, is restricting our "draw-down" to one week at a time. This may save the United States a miniscule amount of the service on its public debt, but it is a major factor of our success in meeting the needs of our citizens.

Question No. 4 - FEDERAL GRANT PROGRAMS

Comments on Task Force Report:

The Task Force report on this question gives only superficial consideration to the appropriateness of how Federal grant programs apply to the territories and under what standards and criteria. Drastic overhauls of the Federal grant system are proposed, when a little effort toward appropriateness might well solve most of the problem. This is reflected in our recommendations to the President below.

The report suggests that multi-year program plans be adopted jointly by the territory and the Federal government, apparently on a comprehensive basis. Since anything which is truly comprehensive would embrace more activities than are funded by Federal programs, requiring Federal government approval of such plans would be an infringement on local autonomy.

The previous draft rightly noted that comprehensive multi-year planning consumes manpower and resources. In fact, it is likely that the best manpower will continue to be drained away from implementation and towards grant generation to an even greater extent than at present. In developing areas, this is too high a price to pay, even with additional Federal incentives. We are disappointed that the final report has deleted internal criticism.

As stated earlier, territorial Governors remain committed to the establishment of a Title V Regional Commission or similar entity for cooperation among the Pacific territories and State of Hawaii. In addition to coordinating planning activities in the Pacific, such an entity would serve to pass through funds to each constituent member for projects of regional benefit. Such a commission or similar organization is not merely a process.

The entity which would be formed would be a reflection of the increased political maturity of the Pacific territories. The Task Force report would have the effect of undercutting these efforts by substituting a Federal process for a regional entity. This is not acceptable to the Commonwealth.

Option I suggests the establishment of a Federal coordinating unit for grants to each territory. They would locate this within whatever entity is established to handle territorial affairs generally, as discussed by Task Force #5. Some consideration should be given to having this coordination accomplished at the regional level by the appropriate Federal Regional Council.

The Northern Marianas already has a territorial coordinating agency in the Governor's office as suggested in Paragraph B of Option I and the concurrence of the Governor is required on grant applications, when not prohibited by law, as suggested in paragraph D. We do welcome, however, the suggestion that matching requirements for Section 701 grants and EDA 302 grants be waived.

Paragraph E of Option I would require approval of this unit before final action on federal grants by any agency. This is a far cry from review and coordination. We see no reason to interpose a new layer of expensive, time consuming bureaucracy, with no expertise in the subject matter, between the territories and granting agencies. This paragraph is unacceptable.

To further centralize the grant activities in Washington, as suggested in paragraph G of Option I, would work an even greater hardship on the Pacific territories. Washington is too far away, communications too unreliable, and the work day doesn't overlap at all. As stated above, it would be

better to decentralize these activities. In fact, this might be a good place to recommend the establishment of a new region, or at least a district, in the Pacific to handle the affairs of the territories and (if a region) Hawaii as well.

Option II ostensibly provides incentives to comply with Option I. Paragraph B requiring Federal review and approval of multi-year development plans is a disincentive, rather than an incentive. Also, paragraph C would authorize "investment plans" based on the development plans, without describing what these are or how they might be implemented. If this means that funding would be available above programmatic levels, that might provide the necessary incentive, but the text is too ambiguous for us to be certain.

Even paragraph A is not much of an incentive. The new Federal requirement for these plans won't go away, but the U.S. would cut its contribution to the task over three years and then end it completely. If the absolute cost of this declines with time, that is encouraging. The percentage share of Federal assistance with a task they themselves set for us, should remain at a constant high level.

It should be made clear that the entire concept of multi-year comprehensive plans is only feasible if the Block Grants option discussed under Option No. 3 is adopted. Otherwise, the territories would still have to comply with the categorical (or consolidated) planning requirements and goals of the various programs and the granting agencies.

In any case, the discussion and options of this question presupposes that the Northern Marianas will subject itself to oversight from, and representation by, any Federal agency responsible for territorial affairs. As our comments on Question No. 5 will indicate neither the Northern Marianas nor the United States has yet come to grips with this question.

If we decide to follow the Puerto Rico example, it would render the options presented in this part of the Task Force report meaningless with respect to the Northern Mariana Islands.

RECOMMENDATIONS TO THE PRESIDENT:

1. Coordinating Units: The President should direct Federal agencies waive matching requirements for territories which establish local coordinating agencies for Federal grants applications. So that overall development activities are not reduced, however, sufficient funds should be made available through the granting agencies to compensate for the lack of such matching funds.

The Commonwealth categorically rejects the suggestion that a Federal coordinating unit be established to rule upon our grant applications to the various Federal agencies. This proposal would destroy the good working relationships which the territories have built with granting agencies for projects and programs in the national and territorial interest. It would interpose unknowledgeable people between the two parties and be expensive and time consuming. It is patronizing in the extreme and would not be tolerated if it were proposed to apply to stateside grantees.

2. Centralization: We also reject the suggestion that Executive Order No. 12149 be modified to centralize control of territorial functions at the Washington level of each agency. It further increases the physical, temporal and emotional distance between the territories and agency decision-makers.

3. Standards and Criteria: By Executive Order, regulation, or legislation, as appropriate, the United States should insure that the standards and criteria for Federal programs are appropriate to each territory.

These standards and criteria should be agreed upon jointly by the United States and the territory. Minimum and maximum levels of benefits, cost of living adjustments, eligibility, environmental standards, and the like should be considered. Sometimes this will reduce amounts which might be granted, and sometimes it will increase them. It is certain, however, that unintended side effects will be reduced, and the programs would be more likely to assist people on the same qualitative basis as in the United States.

4. Simplified Application Procedures: The President should direct all Federal agencies to permit the territories to apply for grants in a simplified fashion. Often a major portion of time and talent that should be put to work implementing a program is devoted simply to applying for it. Many of the requirements demand statistics and other information which may not be available in the territory. Simple descriptive narratives should usually suffice.

5. Operation and Maintenance: The Commonwealth recommends that the President direct, or seek legislation to allow, an operation and maintenance (O&M) component in Federal capital grants. The current Federal grant system provides incentives to territories to allow their infrastructure to deteriorate. It is not difficult to get a grant for capital improvement. Nearly always, however, it is impossible to get help with O&M. Perhaps this is why U.S. bureaucrats let the Northern Marianas fall into ruin during their administration.

In any event, there would be far fewer unnecessary grants for capital projects, if a portion of the original grant could be set aside for

O&M for a reasonable time, say five years. This would allow the territory to absorb the new facility better, rather than use it poorly or not have the means to maintain it.

This same interpretation should also be held to apply to the funds reserved for capital improvement projects under the Covenant..

6. Multi-year Development Plans: Where territories wish to establish multi-year comprehensive development plans, Federal assistance should be made available in terms of people and money to assist such efforts. The proportion of Federal support for this activity should not decline with time. Projects identified in such plans that cannot be adequately funded through existing Federal and local programs should be considered prime candidates for ad hoc funding by the Congress. Perhaps an even better approach would be for the President to seek legislation to establish a special fund for this purpose, so that long legislative delays could be avoided.

Question No. 5 FEDERAL ORGANIZATION

Comments on Task Force Report:

The Task Force report on Federal organization has been improved from the original draft by including a recognition that no formal arrangement has been made to provide for administrative responsibility or representation for the Northern Marianas within the U.S. Executive Branch. We disagree strongly, however, with the statement that "the Northern Marianas are within Interior's jurisdiction so long as the Trusteeship continues." Sections 103 of the Covenant, which guarantees our right to self-government and Section 105, which describes the method by which the United States can apply territorial-like legislation to us, are already in effect. If the U.S. wants to place us under the jurisdiction of any Federal agency without our consent, it will have to do so by legislation, not by Executive or Secretarial Order, and it will have to name us specifically therein.

The Section By Section Analysis of the Covenant to Establish a Commonwealth of the Northern Mariana Islands, which forms part of the official legislative history of the Covenant, describes what the situation will be like under Section 103:

The fact that the people of the Northern Marianas will have the right of local self-government and will govern themselves under their own constitution means that the Northern Mariana Islands will not be an agency or instrumentality of the United States Government. A territory is merely part of the United States Government and is subject to the direction of the Congress and Executive Branch of the government. The Northern Mariana Islands government will be an independent government, like that of the states.

The Analysis, in describing Section 105 states:

Neither the Commonwealth of Puerto Rico nor any territory has the express protection contained in Section 105; they can be affected

by federal legislation which could not be made applicable to a state even if they are not named in that legislation. Indeed, American Samoa and the Trust Territory of the Pacific Islands are now wholly run by the Executive Branch of the federal government and they can be affected not only by a wide variety of federal legislation but also by executive orders over which they have no control. This will not be true with respect to the Commonwealth of the Northern Marianas. It will not even be true prior to the establishment of the Commonwealth, for Section 105 comes into effect before termination of the Trusteeship (emphasis supplied).

In the meantime, we have assumed that the Department of the Interior's Office of Territorial Affairs has been serving as our focal point on an informal basis. Their help is greatly appreciated. However, as we develop our relationship with the Federal establishment becomes increasingly complex, and single agency representation may no longer serve our needs. In addition, the principles of self-government guaranteed in our Covenant with the United States may not be well served by the detailed oversight which a formal relationship implies.

Of the various options presented in the review of Question No. 5, Option 2, an interagency office for the territories, appears to be the most useful approach. We are surprised that the final Task Force report has moved this office out of the White House and back into the Department of the Interior, but either way, it is an improvement.

Our support for Option 2 should not imply that we necessarily would be willing to place ourselves under the stewardship of such an interagency office. This would depend on what assistance and services would be afforded the Commonwealth under such an arrangement, and what powers such an office would have over Commonwealth affairs. We reserve the right to follow the

Puerto Rican model, with no lead agency designated, or to conclude other arrangements with the United States after consultation pursuant to Section 902 of the Covenant.

Regardless of what office, if any, has the responsibility for the territories a mechanism is needed for effective coordination among Federal agencies which deal with the Pacific territories. As stated in our discussion of an earlier question, Washington is too far away to handle the day-to-day Federal/territorial interaction. We believe the most useful mechanism for Federal coordination would be the creation of a Pacific Federal Region based in Hawaii to serve that state and the Pacific territories. Sufficient travel should be allotted to regional employees to travel among the territories on a frequent basis. Federal funds should also be made available to the territories to travel to the regional location.

If the above suggestion is not practical, an alternative would be to create a Pacific Territories District in each appropriate department and collocate it with the Hawaii district offices. This would insure, at the very least, that a minimum of one professional employee from each agency will be assigned full-time to deal with the needs of the territories. The same comments regarding travel in both directions apply here as they would to a new Federal region.

Regardless of what decentralization mechanism is chosen, all agencies should be required to participate, regardless of whether they normally follow the standard Federal region system.

RECOMMENDATIONS TO THE PRESIDENT:

1. The President should reaffirm the commitment of the United States to abide by Section 103 and 105 of the Covenant by declaring that since January 9, 1978, the Northern Mariana Islands have not been legally under the jurisdiction of any Federal agency, but are free to make formal or in-

formal arrangements for coordination and representation with the mutual consent of both parties.

2. The President should establish an interagency office for the territories, located administratively either in the Department of the Interior or in the Executive Office of the President.

3. Whatever office is chosen as the focal point for territorial activities within the U.S. Executive Branch, the President should inform the Northern Marianas what duties, responsibilities, and powers he is assigning to such office, and invite the Commonwealth to enter into a formal arrangement for representation. If the Commonwealth declines to enter into such an arrangement, either the Governor or the President could request consultations pursuant to Section 902 of the Covenant.

4. The President should require all Federal departments to decentralize their territorial activities and participate in a new Federal Region XI to be located in Hawaii and serve the needs of that state and the Pacific territories. Alternatively, all agencies should assign at least one person in the Pacific to serve in a liaison capacity with the territories. Such liaison officers would constitute a special Federal District for the Pacific Territories and coordinate their activities with one another in the same manner that the Federal Executive Board does for Federal activities in the State of Hawaii. Sufficient travel funds should be made available for the designated Federal officials to visit the territories frequently and for Territorial officials to visit their Federal counterparts.

Question No. 6 - FEDERAL PRESENCE

Comments on Task Force Report:

Both the question and its analysis assumes the continuation of the Federal Comptrollers. We make no such assumption. The continued presence in the Northern Marianas of the Federal Comptroller for Guam is inimical to the principles of self-government set forth in the Covenant. The Federal Comptroller no longer serves a useful audit function now that the Northern Marianas has established the position of Public Auditor. The offices duplicate one another, and neither we, nor the Federal Government, can afford to waste funds in this fashion. The Public Auditor can supply reports to the Federal establishments as necessary; special audits can be conducted by agencies or the General Accounting Office should an unusual need arise; and the technical assistance functions of the Federal Comptroller can be transferred to another agency.

The Commonwealth has just moved out from under direct Federal administration. This vestige of colonialism must similarly be removed in the interests of the political development of the Northern Mariana Islands.

After full consideration, we also conclude that it would not in the best interest of the Northern Marianas to establish offices of Federal coordination at the territorial level. The final Task Force report makes it clear that a major function of such an office would be to enhance "Federal activities that are consistent with Washington's policy objectives." This smacks of lobbying, and represents an undue interference in the internal affairs of the Commonwealth. We are interested in receiving assistance to pursue our own policy objectives, not Washington's.

We have no particular objection to Option 3 which would assign a

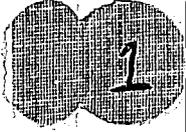
representative in the Pacific of the coordinating office for the territories. This could be useful in light of our earlier recommendation that each agency assign someone in the Pacific to look after territorial affairs. Our lack of objection to this proposal, however, should not be taken to indicate that we wish to deal with the Federal establishment through such a representative.

RECOMMENDATIONS TO THE PRESIDENT:

1. Since the continued presence of the Federal Comptroller is inconsistent with the requirements of the Trusteeship Agreement that the United States promote self-government in Micronesia, the President should use his powers under Section 1004 of the Covenant to remove the Northern Marianas from the oversight of the Federal Comptroller. The President should also seek legislation to make the suspension of such oversight permanent. The technical assistance activities, but not the oversight functions, currently being performed by the Federal Comptroller should be transferred to another Federal agency.

2. The President should not create offices of Federal coordination in the territories. This represents a return to more direct Federal oversight of territorial activities and is a further step away from self-government. To the extent that such offices would attempt to influence local decision-making in the furtherance of Washinton objectives, it would also be in violation of the principles of self-government set forth in our Covenant.

3. If the President assigns responsibility for the territories to an existing or newly created Federal office, representatives of such office should be located in the field, wherever the appropriate region or district offices are located. The President should not assume, however, that the Northern Marianas wishes to deal with or through such a representative.



President of the Senate and Speaker of the House



THE SENATE
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

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Pedro P. Tenorio

TINIAN AND AGUIGUAN

Serafin M. Dela Cruz
Hilario F. Diaz
John U. Hofschneider

November 15, 1979

Mrs. Ruth Van Cleve
Director, Office of Territorial Affairs
U.S. Department of Interior
Washington, D.C.

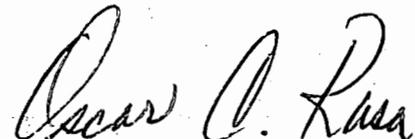
Dear Mrs. Van Cleve:

Pursuant to your request, we have submitted our written comments on the Interagency Territorial Policy Review to Mr. Fukutome, the U.S. Comptroller for Guam and the Northern Mariana Islands on November 16, 1979.

We trust that our comments and concerns will be reflected on your report to the President and that some positive action will be forthcoming with respect to our major concerns.

Thank you for your cooperation and assistance.


Lorenzo I. Guerrero
President of the Senate


Oscar C. Rasa
Speaker of the House



THE SENATE
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

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COMMENTS ON THE QUESTIONS AND RECOMMENDATIONS
POSED BY THE INTERAGENCY POLICY REVIEW OF
U.S. TERRITORIES AND THE TRUST TERRITORY

PRESIDENT
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QUESTION NO. 1

At the outset, we would like to express our satisfaction of the fact that the revised version of the Interagency Policy Review of U.S. Territories did, in fact, acknowledge and accommodate many of our concerns raised by our previous concerns.

This revised version of the report has taken cognizance of the fact that the status of the Northern Marianas is somewhat unique as compared to the other territories discussed, and has treated such status accordingly.

However, there are still many principle concerns of ours which need to be re-emphasized at this time with the expectation that they will be acknowledged and responded to.

As a general position we agree with the report that the Northern Marianas has no desire, at the present time, to modify our formal relationship with the U.S. Moreover, we are striving to make that relationship work. Such

endeavor is mentioned in the report, however, a high degree of priority should be given to the cooperation of the U.S. to make the relationship work more efficiently.

For instance, the report refers to the fact that the Northern Marianas provides basing alternatives and supports the defense security of Guam, and also mentions the Five-year option to lease land on Tinian for military activities.

We wish to stress the fact that the agreed rental value of property to be leased by the U.S. was a major factor and inducement to enter into the political relationship with the U.S.

We have not received any indication from the U.S. that the lease option will be exercised at all. The five-year option will expire in 1983.

In view of the defense strategy in the Pacific area, as stated in the report, it appears that the option will be exercised. However, at this time, it is a mere speculation.

We should receive some assurances from the U.S. as to their future plans with respect to this lease option in order that we may plan accordingly.

With respect to policy question number six and the options listed thereunder, we select option A as being the most realistic for the Northern Marianas. The Northern Marianas Commonwealth Legislature recently adopted a resolution expressing the desire stated in option A.

The resolution contradicts the statement made in option C that there is no desire on the part of the Northern Marianas to change its current Washington Representative status.

Option B is totally unrealistic and unacceptable. Guam and the Northern Marianas are two separate entities and are also culturally, economically, and socially different. The people of the Northern Marianas are utterly opposed to such a proposal.

Although option D correctly states that the people of the Northern Marianas will not become U.S. citizens until the termination of the Trusteeship Agreement, we believe that our selection of Option A is imperative at this time in order to seek delegate status for our Washington Representative in the U.S. House of Representative at least by the time of the Trusteeship Agreement termination.

American Samoa has been promised such a status in 1980 and they are U.S. nationals whereas we will be U.S. citizens, and are, at the present time de facto U.S. citizens.

We are pleased to note that the revised report, unlike the previous one, has a section 9 dealing with the commission on the application of federal laws to the territories and specifically refers to our soon-to-be appointed commission.

We totally agree with the report's awareness of the fact that the impact of federal laws upon the territories and more specifically upon the Commonwealth of the Northern Mariana Islands is not always the product of careful consideration.

Indeed, we have been the victims of several federal laws which have been applied to us. In our endeavor to achieve a harmonious relationship with the U.S. the obstacles we have encountered in the form of federal constraints have been our most serious setback.

We have had arbitrary directives by federal regulatory agencies advising us that the Northern Marianas are subject to their jurisdictions.

Our economic goals do not appear to be too optimistic when we see the impractical application of mountains of federal regulations falling upon us.

Indeed, most of the regulations trying to be forced upon us were never originally contemplated to include us within their jurisdictions.

The Covenant's provision creating the advisory commission on federal laws is, in our opinion, one of the top priorities for our government.

We have impatiently waited for more than two years and still with no results, however, we hope that the words in the report, "will shortly be appointed," can be interpreted literally and that the President of the U.S. will appoint the commission forthwith:

We view this commission as being our possible savior from the burdensome application of federal regulations being applied to us in a highly inconsiderate manner.

QUESTION NO. 2

The question of economic development recognizes in the report the federal constraints as being a major obstacle.

For the sake of brevity, our comments and desires expressed in the latter question concerning the importance and immediacy of the Commission On Federal Laws should also reflect the major position of our aspirations concerning the question of economic development as proposed in the report.

In addition, we are pleased to note that this report has eliminated erroneous assumptions contained in the previous report concerning various aspects of our economic development.

For instance, the report acknowledges our potential for expansion of the tourist industry.

Our revenues from tourism has gradually increased and this industry should be assisted and encouraged by the U.S.

Our transshipment potential was also acknowledged along with that of Guam as well as the necessity to improve our infrastructure in order to meet the aspirations of the population and to encourage private investment.

Our potential for the development of new forms of energy should be encouraged by expanding the present assistance and expertise provided us by the U.S.

The suggestion of a federal agency for the territories which would undertake an analysis of federal constraints to economic development is unnecessary as applied to the Northern Marianas, if the commission mentioned earlier is appointed quickly.

QUESTION NO. 3.

Although we can most appreciate the concern of the U.S. regarding the methods of providing federal financial aid to the territories, from our point of view the Ad Hoc subsidies should continue until the infrastructure to meet our current and future needs is in place. If the U.S. could not achieve this goal for 35 years how are we to be expected to generate the capital to accomplish such a task.

For instance, the Ad Hoc appropriation of 9 million dollars intended to pay for the construction of the Saipan Power Plant, currently nearing completion, should not be eliminated as suggested

by the Interior Department.

The Power Plant is a vital element of our infrastructure and as such, should be viewed as an economic necessity in order to develop our potential for economic development.

Regarding the proposed options, option 3 would be our choice due to its incentive to increase self-government and eliminating the necessity to coordinate the many federal categorical programs to which we are presently entitled to.

We take issue with the statement made in the report that the Internal Revenue Code provides for an equitable system for raising tax revenues in the territories. Indeed, President Carter has even called it a disgrace.

In any event, the Northern Marianas has enacted a local tax law consistent with the local territorial income tax, as authorized by the Covenant. This tax is easy to understand, prepare for, and administer, in addition to being equitable. It is also expected to generate three times as much revenue as the Internal Revenue Code would.

Our collection of taxes has also been very effective with only a small percentage being outstanding.

Therefore, we believe option 3 to be the most feasible in that it would grant the territories autonomy over their income tax system while technical assistance would be provided by the federal government.

QUESTION NO. 4.

The comprehensive multi-year planning suggested by the task Force could create a heavy bureaucracy for administration.

Since we have to deal with Region IX for our grants there should be a representative located in the Northern Marianas with full authority for Region IX programs. This would eliminate the burden of communicating with San Francisco's Office.

The administration should be decentralized, perhaps, even a new region established closer to the territories.

The application grants should be simplified for the territories thereby eliminating the need for skilled personnel to implement the applications for grants.

Perhaps the grants should be held in reserve for a period of about five years from which the territories could draw on.

Of the two options proposed we find the first option to be the most desirable, however, before such option is adopted, we would like to offer modifications at that time.

QUESTION NO. 5.

At the present time, the Interior Department is our liaison for dealing with Washington. However, we have been in direct contact with most federal agencies without the assistance of the Interior Department and have, in most cases, been successful in so far as receiving responses and other considerations that we seek.

None of the options presented in their present form would satisfy our expectations. Therefore, it is our desire to maintain the direct relationship we now have with many federal agencies and to be assisted in our endeavor to seek and develop other relationship with other federal agencies. Perhaps this could best be accomplished by a form of directive from the President to all federal agencies to extend their cooperation and assistance to us when it is so requested

by the Northern Marianas Government.

In addition, we should still be able to maintain a working relationship with the Interior Department, perhaps to provide assistance when we encounter an agency that is unresponsive to our requests.

In any event, the status quo is proving to be fairly effective and it may be premature to consider changing it at this time.

Perhaps, when the status talks, guaranteed to us under the Covenant occur, it may be appropriate to discuss this topic further.

QUESTION NO. 6.

The issue presented by this question is whether or not there is need for a federal presence beyond that provided for by the comptroller.

We can appreciate the vital role exercised by the federal comptroller, especially their new activities of providing technical assistance in the area of financial management.

Option number 2 would seem to be the most appropriate one for the Northern Marianas. Coordination between the Northern Marianas and the federal government is most necessary, especially in the area of communication. If such an office were established here providing communications from our government to the federal government, it would indeed, lessen the chaos that sometimes exist in receiving or sending messages to Washington.

We agree that it would give the Northern Marianas greater credibility in the funding process and should facilitate federal responses.

However, if such an office were to be established, their responsibilities would need to be delineated so as not to unduly

intefere with our affairs.

Although, we also like option 3, we agree that the necessary mechanism to provide the technical assistance would be lacking.

Therefore, we would like to suggest, perhaps a merging of option 2 and 3.

This would be the most feasible solution. In the meantime, the U.S. comptroller should continue and expand the technical assistance offered by his office to the Northern Marianas.



THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
CHARLOTTE AMALIE, ST. THOMAS 00801

November 16, 1979

Honorable James A. Joseph
Under Secretary
Department of the Interior
Washington, D.C. 20240

I am pleased to transmit herewith my response to the revised reports of the Interagency Territorial Policy Review Task Force.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Juan Luis", written over a horizontal line.

JUAN LUIS
Governor

Enclosure

RESPONSE OF THE GOVERNOR OF THE
VIRGIN ISLANDS TO THE REVISED
REPORTS OF THE INTERAGENCY
TERRITORIAL POLICY REVIEW
TASK FORCE

NOVEMBER 16, 1979

INTRODUCTION

In the transmittal letter from the Under Secretary of the Interior dated October 31, 1979 which accompanied the revised Task Force Reports, the Governor of the Virgin Islands was requested to express his views on the questions and recommendations contained in the revised Reports by choosing among the options provided. In this response, the format is similar to the one employed in the "Comments of the Governor of the Virgin Islands on the Reports of the Interagency Territorial Policy Review Task Force" dated October 12, 1979, a copy of which is attached. Each policy question is identified, a choice among options is made, and summary comments are included where appropriate.

The Government of the Virgin Islands does not agree with the contention that the policy questions and recommendations in the revised Reports vary only slightly from those contained in the initial Reports. To cite one example, in the case of revised Task Force Report #2, the ten options listed in the initial report have been pared to one general recommendation calling for an analysis of Federal laws which restrict economic development in the territories. While the Government

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of the Virgin Islands fully endorses this recommendation, the initial Task Force #2 Report contained a number of potentially beneficial options which were simply dropped from the revised Report.

One of the Virgin Islands' major criticisms of the initial Task Force Reports was their lack of recognition that the territories vary widely in terms of culture, economics and politics, making uniform economic development strategies inappropriate. In the revised Reports, there has been a noticeable shift in emphasis towards developing more flexible strategies that can be tailored to meet the unique conditions of each territory. The Virgin Islands Government fully endorses this change towards a more individualized approach to the territories.

Another flaw in the initial Task Force Reports was their lack of recognition of the Virgin Islands' strategic importance in the politically unstable Caribbean. While mention has been made in the revised Reports of this situation, no specific proposals have been offered to take advantage of the unique role which the Virgin Islands could play as a United States territory in the Caribbean.

In its October 12th Comments, the Government of the Virgin Islands reiterated a number of major concerns which

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had been described in correspondence dated June 6, 1979 from Governor Juan Luis to the Under Secretary of Interior James A. Joseph. It had been expected that these concerns would be addressed in the Task Force Reports. Because this was not done the Government of the Virgin Islands would again like to emphasize these matters of paramount importance to the Territory. While these concerns may not constitute a "comprehensive strategy" they are essential to the Territory's economic development:

... Settlement of the litigation concerning excise taxes owed to the Virgin Islands Government on petroleum products manufactured in the Territory and shipped to the United States.

... Compensation for the massive costs incurred as a consequence of Federal immigration policies enforced in the Virgin Islands.

... Reimbursement of revenues lost to the Virgin Islands as a result of Federal tax reduction acts.

... Assistance with the chronic water and power problems afflicting the Territory.

... Protection of the Virgin Islands rum industry from tariff reduction and excessive federal regulation.

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... Assistance to the Territory in upgrading of port facilities.

... Assistance to the Territory in the purchase of the "Harvland" properties for agricultural development.

... Assistance in developing the local fishing industry to its full potential.

RESPONSE TO REVISED TASK FORCE REPORT #1

The choices of the Government of the Virgin Islands among the options presented in Revised Task Force Report #1 are as follows:

Policy Question 1. Constitutional amendments to provide for voting in Congress by representatives of the territories and for voting in national elections by United States citizen residents in the territories.

Option 1 A: Endorse Constitutional amendments to provide for voting in Congress by representatives of the territories and for voting in National elections by United States Citizens residents in the territories as being correct in principle, but with qualifications which make it clear that a territory cannot be accorded the same quality of voting representation (two Senators and one Congressman) that it would have if it were a state; nor can it be accorded the same number of electoral votes as it would have, were it treated like a State.

As indicated in its October 12th Comments, the Government of the Virgin Islands favors Option 1A. Suffrage for United States citizens should not be determined by geographical residence. For further comment on Option A see pages 9-10 the October 12th Comments. Options 1B, 1C and 1D are rejected.

Policy Question 2. Senate representation for territorial delegates.

Option 2 A: Support legislation to expand the role of territorial Delegates to include both Senate and House representation. The actual powers that the Delegates would exercise in the Senate would be determined by the rules of that body as would questions relating to staffing and other expenses.

The Government of the Virgin Islands reiterates its support for Option 2A. Senate representation for the Territory would provide an opportunity for Territorial concerns to be more adequately addressed in the Upper House, and would considerably improve the Territory's ability to monitor both Senate floor action and decision-making in Senate committees. Option 2B is rejected.

Policy Question 3. Status talks on the subject of the territory's future political status and its relation to the United States.

Option 3 A: State that any territory should bring its concerns about political status and relationships with the Federal Government to the attention of the Federal Department charged with territorial affairs, or if it chooses, directly to the attention of Congress.

As indicated in its October 12th Comments at page 11, the Government of the Virgin Islands supports Option 3A. The Virgin Islands would choose to deal directly with Congress rather than with a Federal agency. Options 3B is rejected.

Policy Question 4. Statehood and independence as status options.

Option 4 A: Consistent with the United States' historic position of according to people the status they have aspired to, state that the people of the current territories should also be able to view whatever political status they desire, including Statehood and independence, as choices that are open to them.

The Government of the Virgin Islands supports option 4A. The people of the Virgin Islands should be assured of their right to self-determination whenever they consider a change in political status to be appropriate. It is recognized, however, that statehood and independence are not practical alternatives until such time as the Virgin Islands economy could sustain the costs which would be incurred as a result of such a drastic change in political status. It is anticipated that the Virgin Islands will pursue a course similar to that of the Commonwealth of Puerto Rico and progress to a status of free association. A Presidential statement indicating a willingness to defer to territorial aspirations would be appropriate.

Policy Question 5. Causing locally drafted and approved constitution to replace the Organic Act for the Virgin Islands and Guam.

Option 5 B: Announce that the people of the Virgin Islands and Guam should be encouraged in the Constitution-drafting process until such time as they achieve documents that will replace their existing organic acts.

The Government of the Virgin Islands reiterates its support for Option 5B, for the reasons stated in its October 12th Comments at page 13. Option 5A is rejected.

Policy Question 6. Change in status for the Government of American Samoa.

Not applicable.

Policy Question 7. Judicial Reform for Guam and the Virgin Islands

Option 7 A: Propose legislation that would upgrade the Federal territorial courts to true Federal district courts, limit the jurisdiction of the Federal courts to Federal matters, and accord the territories the power to create the highest courts of their jurisdiction.

The Government of the Virgin Islands continues to support Option 7A, for reasons stated at page 14 of its October 12th Comments.

Policy Question 8. Identical treatment in Federal grants-in-aid programs to territorial residents

The Government of the Virgin Islands of course supports equitable treatment for the Territory in such Federal social programs as Medicaid, Supplemental Security Income and Aid to Families with Dependent Children. As was mentioned in the revised Task Force Report, there is no rational basis for the existing inequitable situation in which an individual from a State loses benefits by moving to the Territory and a Territorial resident gains benefits by moving to a State.

Policy Question 9. Commissions on the Application of Federal laws to the Territories.

The Government of the Virgin Islands endorses the establishment of a Federal Virgin Islands Study Commission with Territorial representation for the purpose of reviewing all Federal laws affecting the Territory and recommending changes where appropriate.

GENERAL COMMENTS

The revised Task Force Report #1 does not give adequate recognition to the strategic importance of the Virgin Islands as a United States territory within the Caribbean. The President has recently articulated a policy of increasing United States military presence in the Caribbean in response to the political instability which marks the region. Not only is the Territory in close proximity to the Eastern Caribbean, but it retains strong cultural ties to these island nations which are the homelands of a significant portion of the Territory's population.

RESPONSE TO REVISED TASK FORCE REPORT #2

Recommendation: It is recommended that the Federal agency designated as the lead agency for territorial affairs be directed to undertake ... an analysis of the constraints on economic development imposed by Federal laws or regulation etc.

The recommendation as stated is not acceptable without clarification. The Government of the Virgin Islands agrees that Federal laws do sometime constrain development of the Territorial economy and that a comprehensive review of such legislation leading to a removal of these constraints would contribute to economic development. It is unclear, however, whether the lead agency identified in this recommendation is to coordinate its activities with the Study Commission discussed in revised Task Force Report #1 at pages 31-32. Without such coordination, the likely result would be duplication of effort and divergent and fragmented strategies.

Concerning the choice of the Federal agency to be responsible for organizing and funding analyses and programs to support the economic development strategy, the Government of the Virgin Islands would prefer the designation of the United States Department of Commerce, which has for many years cooperated with the Virgin Islands in economic development planning. Such an arrangement would preserve the continuity of a substantial number of programs already underway.

GENERAL COMMENTS

The Government of the Virgin Islands strongly reiterates its support for those development options spelled out and justified in the October 12th Comments at pages 18-22. These include Federal-Territorial cooperation to capitalize the Virgin Islands Government Development Bank, to develop alternative energy sources, mass transit systems and cultural centers, to create a permanent Caribbean Regional Economic Development Commission, and to liberalize trade policy. Moreover, as stated in its October 12th Comments, the Virgin Islands Government strongly supports the retention of the Virgin Islands exemption from the Jones Act.

The Territorial Government reiterates its request made in June 6th correspondence to the Under Secretary of the Interior and repeated in its October 12th Comments at page 3 for Federal assistance in several other specific areas: in water supply and power generation, in port development, in protecting the Virgin Islands rum industry from tariff reductions and excessive federal regulation, in local fisheries development, and in the purchase of the "Harvland" properties for future agricultural development. While these requests may not constitute a "comprehensive strategy," they are essential to the Virgin Islands' economic development.

RESPONSE TO REVISED TASK FORCE REPORT #3

Alternatives to the Present System of Direct Federal Assistance

Option 1: Match the amount of taxes collected under tax laws imposed by each of the territories.

The Government of the Virgin Islands does not favor Option 1, which would provide for a "matching fund" to replace Section 28, subsection (a), Revised Organic Act, because the revenues that would accrue to the Territory under this system would be substantially less than the revenues presently available under current arrangements. For elaboration of this position, see page 27 of the October 12th Comments.

Option 2: Establish a territorial Development Bank.

The Government of the Virgin Islands is opposed to the establishment of a Federal territorial development bank servicing all of the territories, and favors the funding of the Virgin Islands Government Development Bank established by Virgin Islands statute to provide medium and long-term financing for private sector development, as explained at pages 18-19 of the October 12th Comments.

Option 3: Provide a single block grant to each territory, based on a territory's funding level in 1979 from Federal Grants-in-Aid.

The Virgin Islands Government is opposed to the provision of a single block grant to the Territory in lieu of other types of Federal assistance and grants-in-aid for the reasons given at pages 27-28 of its October 12th Comments. These include the growing capacity of the Territory to secure categorical grants and the program guidance available from the various Federal funding agencies. Although a single block grant would provide flexibility and reduce administrative work, the same advantages can be secured through the implementation of grant consolidation as provided for in Title V of Public Law 95-134. In addition, Title V provides for waivers of matching requirements, a policy the Territorial Government strongly endorses. The Territorial Government's position is more fully set out in its October 12th Comments at pages 31-35.

Option 4: Increase Federal Oversight over Territorial Finances

The Government of the Virgin Islands is opposed to any increase in Federal oversight of Territorial finances. The Territorial Government is committed to increasing its participation

in Federal categorical grant programs (October 12 Comments, at page 29). The regulations and financial accountability procedures of these Federal grant programs in conjunction with the presence of the Federal Comptroller are sufficient to guide the Territory in its management of Federal funds.

Option 5: Apply cost-sharing to capital improvements (a 90/10 Federal Territorial ration) and set specific units on maximum operational support (the 1980 base plus 3 percent for an inflation adjustment).

The Government of the Virgin Islands is opposed to Option 5. Title V of Public Law 95-134, which allows for the waiver of matching requirements for Federal categorical grants, was intended to provide more flexible financial arrangements for funding programs and projects in the territories. In the past, Federal allocations available to the territories were often not being fully utilized because there was insufficient local funding to meet the matching requirements. For example, millions of dollars in Federal highway funds have been lost to the Virgin Islands because local funds were not available to meet the Federal matching formula.

Following the intent of Title V, Federal agencies such as the Environmental Protection Agency and the Federal Highway

Administration have agreed to waive all matching requirements for capital projects. The Territorial Government would expect other Federal agencies to make similar use of the authority granted in Title V when circumstances warrant such waivers. The 90-10 cost-sharing formula suggested in Option 5 would not permit such discretionary use of waivers, however, and would therefore result in the loss or deferral of projects needed by the Territory.

Assuming that the "1980 base" referred to in Option 5 is defined as Federal assistance to the Government of the Virgin Islands General Fund operating budget, this "base" is approximately \$40 million. It is the policy of the Territorial Government to increase its participation in Federal categorical grant programs, however, and a ceiling on operational assistance is therefore unacceptable. Further, Option 5 suggests that an inflation rate of 3% per annum be used to adjust this ceiling. With inflation running at approximately 13% per annum, such an arrangement would result in a decrease in the actual purchasing power of these Federal dollars and would not keep pace with the funding needs of the Territory.

Option 6: Waive categorical grant matching requirements only for specific activities such as comprehensive planning which the Federal Government wants to promote in the Territories.

The Government of the Virgin Islands is opposed to this Option. Title V of Public Law 95-134 gives Federal agencies discretionary authority to waive matching requirements for categorical grant programs, and this provision was not intended by the Congress to be applicable to only a few "specific activities." The waiver of the matching requirements for the "specific activity" of comprehensive planning suggested by Option 6 would constitute a very minimal financial advantage to the Territory. Currently comprehensive planning grants are being matched by "in-kind" services, which are absolutely essential in carrying forward program objectives and could not be eliminated or dramatically reduced even if matching requirements were to be waived. On the other hand, waivers are essential for large-scale economic development projects requiring multi-million dollar funding. For example, St. Croix' West End project would be severely impeded if Federal matching requirements are not waived. Flexibility must be maintained in determining the application of the waiver provision if the Virgin Islands is to receive maximum benefit from Federal categorical grant programs.

Alternatives to the Present Tax Systems in the Territories.

Option 1: Apply the Federal Internal Revenue Code directly to the Territories and have the IRS administer the law.

The Government of the Virgin Islands for reasons stated at page 30 of its October 12th Comments strongly opposes Option #1, which would provide for Federal administration of the Territory's tax system. If the Virgin Islands Department of Finance is staffed at appropriate levels and receives technical assistance in training its personnel, the Territorial Government will be able to do a satisfactory job of tax administration and enforcement.

Option 2: Fix up the Technical Flaws in the "Mirror" Systems and provide Federal assistance in Tax Administration.

The Government of the Virgin Islands supports Option #2 on the condition that the reforms of the laws, revenue rulings and interpretations constituting the "mirror" system be worked out jointly by the Virgin Islands Department of Finance and the United States Treasury Department. "Cleaning up" the mirror system would allow the Territory to retain a legally distinct, locally administered tax system, and would ensure that the changes introduced would fit the special requirements of the Territorial economy.

Option 3: Grant the territories complete autonomy over their income tax systems.

While the Government of the Virgin Islands favors Territorial autonomy over the administration of its tax

system, it rejects the suggestion that a simpler tax system would be better attuned to Territorial needs and capabilities.

With an adequate level of technical assistance the Internal Revenue Code will continue to be a satisfactory tax system for the Virgin Islands. The implementation of a simpler system would require costly redesign of documents, forms, and manuals, retraining of personnel, and re-education of a public which is accustomed to the Internal Revenue Code.

GENERAL COMMENTS

The Government of the Virgin Islands takes strong exception to the statement made at page 11 of revised Task Force Report #3 that the Territorial Industrial Development Program has not provided "any substantial benefit to the territory." This conclusion conflicts with the substantial direct employment and tax benefits which the Virgin Islands have enjoyed as a result of this program, as described at page 17 of the October 12th Comments.

The revised Task Force Reports have not addressed several major issues which directly affect the financial position and planning of the Virgin Islands. The Government of the Virgin Islands, therefore, reiterates these areas which, while they may not constitute a "comprehensive strategy", are essential to the financial well-being of the Territory:

TASK FORCE #3

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... Settlement of the litigation concerning excise taxes owed to the Virgin Islands Government on petroleum products manufactured in the Territory and shipped to the United States.

... Compensation for the massive costs incurred as a consequence of Federal immigration policies enforced in the Virgin Islands.

... Reimbursement of revenues lost to the Virgin Islands as a result of Federal tax reduction acts.

RESPONSE TO REVISED TASK FORCE REPORT #4

Option 1: Issuance of a Presidential Memorandum
or Executive Order

As was indicated in its October 12th Comments at pages 33-34, the Government of the Virgin Islands is opposed to a Presidential Memorandum or Executive Order creating the described Federal coordinating unit.

Option 2: Legislation providing for multi-year develop-
ment plans subject to Federal review.

The Government of the Virgin Islands is opposed to legislation providing for multi-year development plans subject to Federal review, for the reasons stated in its October 12th Comments at pages 34-35.

GENERAL COMMENTS

While the Virgin Islands Government is opposed to the two options presented, the Government supports the goal of developing long range planning in the use of Federal funding. To this end, the recently created Virgin Islands Federal Programs Office has identified long range planning as a goal of paramount importance to the Territory and is working with both the Federal and local governments to achieve this goal.

At the same time, there have been a number of recent initiatives originating within the Federal Regional Council and the Federal grantors establishing long term planning mechanisms for the use of Federal funding. This has been particularly apparent in Environmental Protection Agency and Economic Development Administration programs in the Territory.

Greater utilization of the consolidation procedure provided by Public Law 95-134 would also contribute to the improvement of grant administration in the territories. To date, many Federal agencies have either not developed the required regulations for grants consolidation or not fully satisfied the intent of this statute. In some cases Federal agencies have promulgated regulations that have resulted in simplifying the administrative burden at the Federal level but not at the Territorial level. This is unfortunate because grants consolidation could be a very creative and constructive approach to alleviating many of the problems of grant administration. The Virgin Islands Federal Programs Office is in the process of preparing a Territorial position on grants consolidation for presentation to the Congress, the Department of Interior and other Federal agencies.

RESPONSE TO REVISED TASK FORCE REPORT #5

Option 1: Interior retains responsibility.

The Government of the Virgin Islands does not support this option. The Department of Interior has not consistently been an effective advocate for the Virgin Islands before the Federal Executive Branch, particularly the White House, the Office of Management and Budget, and the Treasury Department, and this failure in effecting communication and coordination has led to less than optimal results for the Territory.

Option 2: Interagency office for the territories.

The Government of the Virgin Islands continues to oppose Option 2. As noted in the October 12th Comments at page 37, such an office could create an unwieldy bureaucratic snarl and would be unlikely to produce effective coordination at either the Federal or Territorial level.

Option 3: Designate no lead agency.

The Government supports Option 3 as a significant step forward for the Territory. For additional discussion on this choice, see page 38 of the October 12th Comments.

TASK FORCE #5

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The Government of the Virgin Islands declines to comment on options 1-5 as set out at pages 10-13 of the revised Task Force Report #5. Its position on the appropriate organizational arrangements for liaison between the Federal Government and the Territory has been clearly stated in the foregoing response to Options 1-3. Any comments on a suitable structure for the Freely Associated States would be inappropriate.

GENERAL COMMENTS

As an alternative to options 1 through 3 as presented in revised Task Force Report #5, the Government of the Virgin Islands advocates the institutionalizing of an office on the President's staff for coordinating policy development and liaison with the territories. Such an office would be useful for securing the Executive attention that the territories deserve.

TASK FORCE #6

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RESPONSE TO REVISED TASK FORCE #6

Option 1: Restrict the Federal Comptroller to a strict audit function.

The Government of the Virgin Islands does not endorse this option. The financial management assistance provided by the Comptroller has been valuable to the Territorial Government and should be continued.

Option 2: Create offices of Federal coordination in the territories.

The Government of the Virgin Islands does not endorse this option. The Virgin Islands Government has already established its own Federal Programs Office to provide coordination with the agencies of the Federal Executive Branch and to implement a program of grant management. An additional Federal "Coordinator" is unnecessary.

Option 3: Create two policy representatives in the field.

The Virgin Islands does not endorse this option. As indicated in its October 12th Comments at page 38, it is anticipated that through the efforts of the Virgin Islands

TASK FORCE #6

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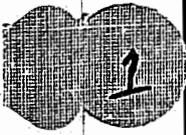
Federal Programs Office effective liaison will be established between the Territory and the agencies of the Federal Government. The Virgin Islands supports a movement toward an arrangement similar to that enjoyed by the Commonwealth of Puerto Rico, which does not rely on a Federal office to oversee its participation in Federal programs.

Option 4: Preserve the status quo and cause the United States Government Comptrollers to continue to provide technical assistance.

The Government of the Virgin Islands supports Option 4. Both the financial management assistance and the audit function provided by the Comptroller's office are services required and appreciated by the Territorial Government.

GENERAL COMMENTS

While the presence of the Comptroller has been generally helpful to the Territory, it should be noted that there has occasionally been sharp divergence of opinion between the Comptroller and the financial officers of the Virgin Islands Government with respect to the financial condition of the Territory. The Government of the Virgin Islands recommends, therefore, that the Federal Government confer with Territorial officials as well as the Comptroller's Office whenever it seeks to determine the Territory's financial status.



Delegate from the Virgin Islands

MELVIN H. EVANS
VIRGIN ISLANDS

COMMITTEE ON ARMED SERVICES

SUBCOMMITTEE ON MILITARY
COMPENSATION

COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS

SUBCOMMITTEES:
WATER AND POWER
NATIONAL PARKS AND
INSULAR AFFAIRS

OVERSIGHT AND INVESTIGATIONS
ENERGY AND THE ENVIRONMENT

COMMITTEE ON MERCHANT
MARINES AND FISHERIES

SUBCOMMITTEES:
MERCHANT MARINE
FISH AND WILDLIFE
COAST GUARD



Congress of the United States

House of Representatives

Washington, D.C. 20515

November 16, 1979

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DEPT OF INTERIOR

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Mr. James A. Joseph
Under Secretary
Department of the Interior
Washington, D. C. 20240

Dear Secretary Joseph:

I hereby transmit my comments insofar as time constraints would allow on the Interagency Policy Review Report. While much of what I say will be applicable to all territories, I shall allow representatives of other territories to speak for their areas, and I shall confine my remarks to the United States Virgin Islands.

At the outset, let me say that there are several major aspects which limit the usefulness of the report or continue to provide a dilemma. The first is that the selection of persons or groups to be interviewed by the task force committee, at least in the Virgin Islands, was such as to render suspect the validity of any conclusions reached based on those interviews. Despite my admonition to the task force to make sure that as broad a group of Virgin Islanders as possible representing all facets should be seen and interviewed, it turns out that the interviews were very restrictive, both as to numbers and diversity of interest. I consider this a serious deficiency.

Secondly, throughout the report, there seems to be the underlying dilemma as to whether the residents of the territories are *really* citizens or not. Even those residents of the Territories of Guam and the Virgin Islands who have been for some time nominally considered citizens, find themselves in the report subject to questionable interpretations as to their rights and

Mr. James A. Jospeh
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privileges as citizens, and in many cases those rights and privileges are subjugated to the constraints of costs, even where in many cases these costs are relatively insignificant.

It seems to me that at the outset, a clear determination should have been made by the task force as to whether, indeed, the full benefits of American citizenship will be granted to those who are listed as citizens and if such were the decision, then it should have followed that any and all obstacles to the enjoyment of the full fruition of citizenship should have been opposed by the task force and not, as in so many cases, options which erode this enjoyment of citizenship to greater or lesser extent presented. To become entangled in the details of the exact status which the territories should enjoy with respect to the Federal Government without providing in any case, for the unlimited enjoyment of full citizenship is to make a mockery of the principles on which this country was established. Small populations cannot be used as an excuse or justification for such denial. In discussion of individual questions asked, I shall be more explicit.

Probably the main reasons for the development of problems in the relationship of the Federal Government and the territories and for the lack of beneficial results from programs made available by the Federal Government lie in the fact that so often laws passed or programs made available by Congress do not consider the unique problems of the territories and how these laws or programs may affect the territories. Examples of this are to be found in the immigration laws which, while considering the United States as a whole, with its two hundred million plus population, fail to consider what effect the passage of such a law as PL 91-225 might have in outlying areas with much smaller populations. This is compounded by the fact that once having passed such laws, with the consequent adverse effects, corrective assistance is either slow in forthcoming or not at all.

Other examples might be the rigid application of minimum wage laws which erode the competitiveness in certain industries of the territories; environmental protection laws, which fail to take into consideration the isolated location of many of these territories and provide for no

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waiver of regulations which were obviously intended for heavily populated areas.

There are many, many more of these examples. Even in cases where the Congress authorized by law the waiving of certain matching requirements for grants to territories, the Office of Management and Budget has in some cases actually vetoed this provision by directing the agencies involved not to honor it.

Question No. 1

What should the United States Government be seeking to achieve in or for each of the territories giving due regard to our legal responsibilities, territorial aspirations, U.S. national security objectives, and our commitment to self determination? What should the United States Government be seeking to achieve in the Trust Territory before the end of the Trusteeship?

The first problem which arises in regard to this question is the underlying connotation that somehow or the other, despite United States citizenship, the residents of the territories require fundamental differences in their treatment. While there can be no doubt that the geographic, economic, social and political differences which exist between, say, the residents of the territories and those of Nebraska or Utah require some adjustment, it must always be kept in mind that the end product should be the enjoyment of the same degree of citizenship by all concerned. When this is done, then the residents of the territories are not looked upon as strange people somehow to be accommodated into the fabric of American life, who would always remain associated with, but not included in, the American sphere. Also, a fundamental decision must be made as to whether residents of the territories are to enjoy the full protection of the Constitution or whether their status as "unincorporated territories" precludes them from such protection. I am extending the term, "protection" in this sense to include Congressional action and its effect on the territories.

The Federal Government has made a commitment to permit self determination on the part of the territories. This is

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excellent. Self determination, however, to be optimized must be made by an informed, intelligent electorate. The groundwork for improving the education of, and the dispensing of pertinent information to, the electorate has often left much to be desired.

There is another point which should be emphasized at this junction, as references to non payment of income taxes into the Federal Government appear throughout the report. It is true that the territories retain the income taxes paid, but this cannot and must not be used to determine the degree to which the residents are entitled to participate. I must remind all that prior to 1942, Virgin Islanders were not even required to serve in the Armed Forces of the United States. At the outset of World War II, however, they petitioned the Federal Government for their right to serve and die for their country. Since then, Virgin Islanders have fought and given their lives in every major conflict in which the United States has been involved, and the per capita casualty rate among Virgin Islanders during the Vietnam War was among the highest in the country. This, alone, should entitle them to full citizenship participation.

In the absence of a desire for independence, and to my knowledge there is no such desire in the Virgin Islands, the main objectives of the Virgin Islanders are for more autonomy and a full degree of citizenship. This should be compatible with the aims of the United States. The details of formal Federal regulations, whatever they are, must incorporate these two basic principles, and we should not become diverted by any controversy over the nomenclature of the status relationship.

The geographical location of the Virgin Islands should be used to the maximum in the consideration of the United States security interest. As part of this great country, this would meet the approval of the residents of those Islands. It would also, of course, aid in the economic infrastructure which, in turn, would decrease the dependence of the Territory on ad hoc assistance.

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Policy Question No. 1

Constitutional amendments to provide for voting in the Congress by representatives of the territories, and for voting in national elections by United States citizen residents in the territories.

Granting that constitutional amendments are difficult and time consuming to secure, it still is clear that if the residents of the territories are to enjoy full citizenship, their representatives must be permitted to vote in the Congress and the citizens to vote in the national elections just as other United States citizens do.

The concept that it is better to deny a group of citizens entirely the right to participate in their government rather than risk some slight degree of overrepresentation is, in my opinion, untenable. Since it is not practical to have a partial representative, the minimum should be one full, voting representative. Additionally, the residents of the territories should be given the right to vote in national elections, even if some provision to present the weight of their vote from being excessive is necessitated. If the only way that these can be accomplished is by constitutional amendment, then we should proceed with the initiation of such an amendment while doing everything in good faith to enhance the chances of its passage.

Thus, I favor Option A.

Policy Question No. 2

Senate representation for territorial Delegates

Despite the fact that the Senate, being a smaller body and, thus, each member generally representing a larger constituency, the basic principle of representation in government by the governed applies, and at least one voting representative for the territory should be in the Senate.

It is interesting that the Islands of Martinique and Guadalupe in the Caribbean, while having somewhat larger

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populations, but are certainly economically much poorer, are recognized as "departments", i.e., "states", by France. This certainly has not operated to any detriment to France.

Thus, I favor Option A.

Policy Question No. 3

Status talks on the subject of the territory's future political status and its relationship to the United States.

I favor Option B. The costliness of this option should not, in my opinion, be a deterrent.

Policy Question No. 4

Statehood and independence as status options

While the criteria set forth in statehood are reasonable, other factors suggesting strategic importance of territories must also be considered and exert some influence in these qualifications.

I favor Option A, although I see little difference between Option A and Option B, except the qualification of economic and strategic realities, and these must be viewed from both sides.

Policy Question No. 5

Causing locally-drafted and approved constitutions to replace the Organic Acts for the Virgin Islands and Guam.

There can be no question that the people of the territories should have the right to establish the constitution under which they should be governed. In the case of the Virgin Islands, the rejection of the constitution in March 1979 was based on technical deficiencies in the proposed constitution rather than in objection to its principle. It is anticipated that in the near future another constitution will be drafted and, hopefully, accepted.

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Policy Question No. 6

(Relates to the Northern Marianas)

Policy Question No. 7

Judicial reform for Guam and the Virgin Islands

The draft constitution rejected by the Virgin Islands last year did embody a revised judicial system in which the Federal Courts would have jurisdiction only over Federal matters as other Federal Courts do, and the system of Territorial Courts would handle all non Federal matters. The element of cost was used as an argument against accepting this provision and while, undoubtedly, it will be costly, it is just as undoubtedly a goal toward which we must work.

Thus, Option A is recommended.

Policy Question No. 8

Identical treatment in Federal grants-in-aid programs to territorial residents.

As indicated earlier, less than full citizenship is accorded residents of the territories when they are prohibited from receiving the benefits of programs such as Supplemental Security Income (SSI) and full benefits are not granted territories under Social Security Public Assistance Programs such as AFDC and Medicare. The argument of the additional cost to the Federal treasury is no justification for discriminatory treatment.

Policy Question No. 9

Commissions on the application of Federal laws to the territories.

Application of Federal law to territories when the residents of the territories have not been accorded the right to help formulate those laws is, on its face, a violation of the

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principles of democracy. To create a commission to determine the impact of such Federal laws upon the particular territory and make recommendations accordingly would not solve the basic inequity involved and would merely institutionalize the practice, which is non democratic.

Question No. 2

How can the United States Government best encourage economic development in the territories, given scarce resources, small population, untrained labor forces, distances from supplies and markets, etc.?

This question is far too broad to be handled satisfactorily in the type of report submitted by the intraagency task force or by any such response as may be given here.

Basically, the solution is in the recognition of several aspects such as those mentioned below, although this list would not be considered a complete list. In the first place, the geographic location of the territories poses problems in supply lines, both to and from the territories, adding to the cost of almost any venture, and reducing the options available in establishing a viable economy. It is of cardinal importance that this be recognized in the application of Federal laws which may have an unduly adverse effect on the economy of the territories, regardless of the noble intent behind the passage of the law.

A second point has been that in the Nation's desire to increase free trade among nations, the interest of the territories has been sacrificed without the necessary consideration or compensation. This is particularly true in the multilateral agreements under GATT. An excellent example is the proposed reduction in tariffs on rum from the Caribbean, thus severely eroding the competitive advantages of the Territory of the Virgin Islands. This same principle applies to a lesser extent whenever there is general reduction of tariffs, which makes the Virgin Islands less competitive.

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The unpredictability of the continuation of the provisions of headnote 3(a) operate to deter major companies from investing sizeable sums of money in the Virgin Islands to take advantage of these provisions since they may be withdrawn at any time. Bureaucratic insistence that unnecessary and inappropriate regulations be followed in the territory precisely as on the Mainland often serves to make non viable industries that might otherwise survive and benefit the territories.

Costly research in such areas as agriculture and fisheries, which can only be performed by the Federal Government, needs to be increased to provide the information and expertise necessary to make these industries viable, despite the adverse conditions in the territories.

Cognizance of the close link between tourism and energy supply is necessary if widespread regulation is to be prevented from destroying or crippling the tourist industry on which the territory depends so heavily.

The deficiencies in the infrastructure referred to are, in the main, related to the adverse effects of the immigration laws previously referred to. Assistance in bringing this infrastructure up to acceptable standards should be a top Federal priority. Note could be made at this time of the assistance given to Florida, especially in the Miami area, when there was a large influx of Cubans, as opposed to no assistance being given to the Virgin Islands following a large influx of new residents permitted under the United States immigration laws.

Not only does the Virgin Islands face an energy crisis based on its almost complete dependence on imported petroleum products, but the excellent geographic location and climatic conditions make an almost ideal laboratory for pilot programs funded by the Federal Government in the energy field. Given the limited resources of the Islands for the development of projects, the Federal Government, through its Department of Energy and with the assistance of related Federal agencies, should take the initiative in utilizing these advantages both for the benefit of the Nation as a whole and the Territory in particular.

I concur in the recommendations made.

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Question No. 3

How can the system of providing Federal financial aid to the territories be improved so as to eliminate the need for ad hoc subsidies and so as to encourage wiser planning and greater fiscal self-reliance in each territory?

It is agreed at the outset that ad hoc appropriations authorized for specific one time purposes, while necessary in the past and for the immediate future, are not the most desirable way to meet the needs of the Territory. This approach will, undoubtedly, be necessary for the immediate future in order to bring the infrastructure up to acceptable levels and to neutralize the adverse effect of, for the most part, past Federal legislation. It goes without saying that the Territory itself, faced with the unpredictability of such appropriations would prefer not to be dependent thusly.

Some question can be raised about the statement, "It /present system of Federal assistance/ provides incentives for the expansion of the public sector at the expense of the private sector." While it might be difficult to refute this completely, it certainly has been exaggerated in almost every report and is partly due to the aforementioned practice of interviewing specific groups with specific points of view.

As far as recommendations are concerned, while it undoubtedly is desirable eventually to terminate the ad hoc appropriations, the large number of needy projects still awaiting action would seem to preclude any immediate termination of this type of appropriation in the immediate future.

I have no quarrel with Option 1, although if it implies that large amounts of additional tax laws can be passed, this might be misleading. When statements are made that the per capita tax load in the Virgin Islands is only 21% versus 30% for the Mainland, this fails to take into account that the per capita income in the Virgin Islands is only 67% of the average per capita Mainland income and, thus, the amount of additional revenue which can be raised by taxation other than improved collection is, in my opinion, very limited.

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The establishment of a territorial development bank, while a desirable step, in my opinion would not be enough by itself to meet the needs of the territory. It should, therefore, be considered as an adjunct rather than as a primary resource. In keeping with the general feeling that block grants are more desirable since they permit more flexibility, I favor the block grant approach.

While increased Federal technical assistance is desirable, the implication involved in Option 4 of increasing Federal oversight over territorial finances is disturbing in its connotation of decreased territorial autonomy.

Without at this point defending the administration of the tax laws in the Virgin Islands, it seems to me to be imperative to note that the decrease in income tax revenues as a percentage of gross territory product may not be due entirely or in large part to the "poor administration" charged. It also happens that during the period in question there was a marked increase in the number of wage earners at the lower income levels, mainly immigrant workers, who would contribute less percentagewise in taxes.

In my opinion, the application of Option 1 to have the Federal Internal Revenue Code applied directly to the territories and have the Internal Revenue Service administer the law would not be the solution and would create more problems than it would solve. For one thing, it would place the Treasury Department and Internal Revenue Service in the position of being plaintiff or defendant, as well as judge, in matters involving the apportionment or assignment of taxes. The present situation is difficult enough without creating an additional, more difficult one.

It seems to me at the present time that Option 2 has the most practical merit.

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Question No. 4

Does any practical device exist to refine the application of Federal grant programs to the territories and the Trust Territory, so as to eliminate those without substantial value to the territory or the Trust Territory, and to make more effective those that do have the value?

In my opinion, the territory should be the sole judge as to which of the Federal programs for which it is eligible it desires to participate in. Since a large percentage of these programs require local matching, it may not always be to the advantage of the territory to participate in a particular program. The territory must reserve the right to set its own priorities, and failure to participate in a given program need not and should not be interpreted in any adverse manner.

One major problem with Federal programs is that the bureaucratic Federal regulations accompanying these programs often place intolerable burdens on the territory, particularly in view of its small size. The flexibility needed to adjust the program to the territories needs and resources is often absent, and bureaucratic insistence on top heavy management minimizes the beneficial effect to a territory and often makes it cost ineffective.

I support the objective of the task force report as indicated.

Block grants, multi year program plans, and close coordination between Federal and local agencies are all worthy objectives. It might be noted here again that sometimes the intent of Congress is thwarted by regulations such as OMB's direction not to waive the matching requirement for certain grants to territories.

My reaction to Option 1 is to oppose the establishment of still another Federal unit. Conscious efforts to coordinate activities between local and Federal agencies, as well as a more flexible approach by the Federal agencies to meet the needs of small off-shore areas without holding them bound to the same rigid, impracticable requirements appropriate for the states would go a long way toward easing many of the problems.

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I consider the long range planning suggested in Option 2 as being desirable, but I do not necessarily agree with the specifics of the declining three year program.

Question No. 5

Should any change be made in the organizational arrangement that places the focus for Federal assistance and liaison for the territories in the Interior Department?

Increased Federal presence is not compatible with the concept of increased autonomy.

Question No. 6

With the elimination of appointed governors, is there a need for a Federal presence in the territories, beyond that provided by the Federal Comptroller?

The arrangement which placed the Virgin Islands under the Navy Department for administrative purposes was improved when the transfer was made to the Department of the Interior. I believe that the time is now proper for a transfer directly to the Office of the President, an arrangement similar to that of Puerto Rico. In my opinion, since most, if not all, of the ultimate decisions affecting the territory have to be made at the Presidential level, the extra bureaucratic layer now existing serves to slow and complicate the process rather than expedite it. I consider that the previous conditions which made the present arrangement necessary no longer obtain, and in the steady march toward increased autonomy an important step such as direct access to the Office of the President would be beneficial.

Summary

The task force report represents a considerable amount of work and contains many desirable and acceptable

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recommendations and conclusions. It is, in my opinion, handicapped by a failure at the outset to define fully what the rights and privileges are of citizens of the United States who reside in the territories. Had such a definition been made, it could only have arrived at the conclusion that there should and could be no second class citizenship, and that citizens of the United States are entitled to the same rights and privileges regardless of where they live. This would have obviated the dilemma as to how to treat the residents of territories, and would clearly indicate the direction to be taken by future legislation to obtain such full citizenship.

Secondly, the small and restricted base of interviews precluded the input of the larger segment of the population which would consequently have broadened and improved the report.

Thirdly, the report recognizes but does not emphasize the extent to which Federal legislation, over which the territories have no control, affects them, very often adversely.

Recommendation

It is my recommendation that this report be used as a starting point only for a much more intensive indepth analysis of the entire Federal-territorial relations and that the deficiencies noted be eliminated in this analysis.

Sincerely,


Melvin H. Evans, M.C.