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Puerto Rico

THE WHITE HOUSE

WASHINGTON

September 11, 1975

MEMORANDUM FOR THE VICE PRESIDENT

FROM:

JAMES CANNON

Jim

Mayor Carlos Romero of San Juan telephoned today to express his concern about your meeting with Jaime Benitez. Mayor Romero, who is a Republican and Chairman of the League of Cities, has serious misgivings about the recommendations of the Ad Hoc Advisory Committee.

He feels it created an awkward situation for him because Benitez quoted you in the San Juan papers as being in support of the Ad Hoc Committee proposals.



THE WHITE HOUSE

WASHINGTON

October 2, 1975

MEMORANDUM FOR THE VICE PRESIDENT

FROM : JIM CANNON

SUBJECT : Marianas

The Marianas resolution, about which Marlow Cook spoke to us, has passed the House and is to be reported out in the Senate this month.

Attached is Roger Hooker's summary.

Attachment

OFFICE OF THE VICE PRESIDENT
WASHINGTON

September 26, 1975

REQUESTED

MEMORANDUM TO JAMES CANNON

FROM: Roger W. Hooker, Jr. *RWH*

SUBJECT: Legislative Status of the Marianas
Covenant.

HOUSE

H.J.Res. 549 was reported out of the House Interior Committee by a vote of 30-0. It passed the House by a voice vote on July 21, 1975.

SENATE

S.J.Res. 107 (copy attached) was introduced in early July and referred to the Senate Committee on Interior and Insular Affairs. Hearings have been completed and the bill is scheduled to be reported out in mid-October.

However, two Senate Committees are claiming jurisdiction and two more Committees have expressed interest in the bill. Below are the arguments and points of the Committees:

Foreign Relations:

This Committee argues for jurisdiction because the Marianas come under the terms of a trusteeship granted by the United Nations with the United States as the administering authority. It is further claimed that this agreement could have some effect on foreign policy in that area of the world.

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Memo to James Cannon
September 26, 1975

Armed Services:

Armed Services has been the most vocal in claiming jurisdiction. Senator Gary Hart of Colorado argues that the agreement is military in nature, i.e., the Marianas would ultimately be used as a U.S. defense installation and he is therefore opposed to the Resolution. His position is supported by Senator Harry Byrd of Virginia. Byrd stubbornly asserts the following non sequitur: since the U.S. "gave up" Okinawa which was clearly a military base, there is no need to obtain the Marianas as a territory.

Section 802 does provide that certain property will be made available to the U.S. government to "carry out its defense responsibilities." However, the intent is that this property will be used for training purposes only.

Judiciary:

This Committee's interest stems from the fact that all citizens of the Marianas who are not already U.S. citizens or nationals will become U.S. citizens. Concern may also be present regarding judicial authority and applicability of laws in the territory.

Finance:

Since the Marianas will become a territory of the U.S., they will be entitled to ". . . the full range of federal programs and services available to territories of the United States." (This particular section is apparently opposed by OMB.) Also included are social security benefits. Furthermore, the citizens will be taxed according to U.S. income tax laws.

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Memo to James Cannon
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PARLIAMENTARY PROCEDURE

When the bill is reported out of the Interior Committee and comes to the Floor for consideration, it could be referred to one or more additional committees by unanimous consent. If unanimous consent is unobtainable, it could, by motion and majority vote, be committed to a single other committee -- e.g., Foreign Relations. Assuming this hypothetical situation, once Foreign Relations reported the bill, it could again be committed to yet another single committee, e.g., Armed Services, by a new motion and majority concurrence.

It now seems apparent that when the bill is reported out of Interior, it will be referred to Foreign Relations. That Committee's claim to jurisdiction due to foreign policy implications is valid. Attempts at discouraging Armed Services from claiming jurisdiction are still being made, but they have not yet met with any measurable degree of success.

MEETING WITH JIM FALK, SAM
HALPER AND MARLOWE COOK
RE: Ad Hoc Advisory Committee
Report
11:00 a.m.
Thursday, October 9, 1975
Situation Conference Room



THE WHITE HOUSE
WASHINGTON

November 6, 1975

*Wasson
Thom
Foster
JMB*

JIM FALK -

Attached are the comments received from the
Cabinet on the Puerto Rico Report:

As others are received I will send them to you.

Attached are the comments of:

Agriculture

Treasury

HEW

Commerce

Defense

Trudy Fry





OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

30 October 1975

MEMORANDUM FOR Mr. James E. Connor
Secretary to the Cabinet
The White House

THROUGH: Captain Leland S. Kollmorgen, USN
Military Assistant to the President

The report of the Ad Hoc Advisory Group on the Compact of Permanent Union between Puerto Rico and the United States has been reviewed, and the Department of Defense has no objection to the section pertaining to security and common defense.

FOR THE SPECIAL ASSISTANT:

A handwritten signature in cursive script, reading "Elmer T. Brooks", is written over the typed name.

Elmer T. Brooks
Lt Col, USAF
Military Assistant





NOV 4 1975

MEMORANDUM FOR JAMES E. CONNOR
SECRETARY OF THE CABINET
THE WHITE HOUSE

FROM : Robert S. Milligan *RS*
Director
Office of Policy Development

SUBJECT: Department of Commerce Status Report on Evaluation
of Proposed "Compact of Permanent Union between
Puerto Rico and the United States"

In response to your request of October 23rd for comment on the above subject, specialists are undertaking a detailed evaluation of the Compact's provisions which fall within the Department's expertise. In particular, we refer to SECTION 9 or "Common Market" aspects of this proposed Compact.

SECTION 9 is of crucial significance not only for the future development and well-being of the Puerto Rican economy, but is also of great practical importance to the U.S. mainland business community. For example, Puerto Rico is currently the world's largest per capita purchaser of mainland United States goods. In terms of volume, Puerto Rico with \$2.9 billion of mainland U.S. exports in 1974, ranked an impressive eighth place vis-a-vis our other trading partners being surpassed only by Canada, Japan, West Germany, Mexico, United Kingdom, Netherlands and Brazil.

Furthermore, we note that SECTION 9 has been in part revised from the April 12, 1975 version of the proposed Compact on which this Department already commented informally by letter of June 3, 1975 to Marlow W. Cook, Co-Chairman of the Ad Hoc Advisory Group on Puerto Rico. As a result of these revisions, it now requires further study and review.

As soon as an expeditious review is completed we will transmit our comments to you.





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

NOV 4 1975

MEMORANDUM FOR THE HONORABLE JAMES E. CONNOR

SUBJECT: Report of the Ad Hoc Advisory Group on
Puerto Rico: Response to your memorandum
of October 23

The Ad Hoc Advisory Group on Puerto Rico has proposed for consideration of the President of the United States and the Governor of Puerto Rico a Compact of Permanent Union Between Puerto Rico and the United States that, if adopted, would substantially alter the relationship between the two governments. Several provisions of the Compact may be expected to bear directly on the manner in which Puerto Rico participates in programs that our Department administers.

For present purposes, we would respectfully invite the President's attention to sections 6 and 11. The Advisory Committee explains section 6 as founded on a belief, "that United States citizens, notwithstanding their place of residence within the jurisdiction of the Federal Government, should participate equally in the benefits provided by laws of the United States relating to social and economic aid, such as loans and other assistance for the benefit of health, education, housing, opportunities for employment and social welfare." A number of the Department's major programs, such as welfare assistance to the adult categories under the Social Security Act, support programs in Puerto Rico on terms quite different from those that apply within the fifty States and the District of Columbia.



Section 12 of the Compact, on the applicability of Federal laws, would provide a procedure under which Puerto Rico could delay the application to it of regulations implementing any statute and ultimately obtain judicial review on the question of whether the regulation was "essential to the interests of the United States".

The implications of these provisions, as well as others that would bear on the programmatic concerns of other agencies of the Executive Branch (such as the provision allowing Puerto Rico to impose external tariffs different from those imposed on goods entering other portions of the United States), require intensive evaluation. Accordingly, I would recommend that you forward the report of the Ad Hoc Advisory Group to the President with the recommendation that he designate a suitable group, perhaps a task force of the Domestic Council, to study the report in consultation with affected departments and agencies of the Executive Branch, and to advise him whether to accept the recommendation of the Advisory Group "that the Compact be referred to both Houses by the President of the United States with his endorsement, for Congressional action."

/s/David Mathews
Secretary

NOV 5 1975

MEMORANDUM FOR: The Honorable
James E. Connor
Secretary to the Cabinet

From: Richard R. Albrecht (Initialed) R.R.A.

Subject: Report of the Ad Hoc Advisory Group
on Puerto Rico

On behalf of Secretary Simon, I am responding to your request for the views of the Treasury Department on the Report of the Ad Hoc Advisory Group on Puerto Rico on the proposed Compact of Permanent Union Between Puerto Rico and the United States.

The attached Treasury Memorandum discusses issues raised by the proposed Compact which are of interest to this Department.

Attachment

TREASURY MEMORANDUM

The following sections of the Report of the Ad Hoc Advisory Group on Puerto Rico on the proposed Compact of Permanent Union Between Puerto Rico and the United States are of interest to this Department:

Section 2

This section outlines the proposed jurisdiction and authority of the Free Associated State of Puerto Rico. Puerto Rico would delegate certain powers enumerated within this Compact to the United States. Powers not so delegated would be reserved to Puerto Rico. The enumerated powers delegated to the United States in the field of taxation are ambiguous. This ambiguity could create many administrative and substantive tax problems which would have to be resolved prior to enactment of the Compact. Also, the Compact should delegate to the United States the specific power to assess, collect and enforce the taxes imposed by the Internal Revenue Code of 1954 (hereinafter cited as "Code") with respect to all persons subject to taxation under the Code.

The proposed Compact would grant the United States responsibility for the foreign policy of Puerto Rico, while providing Puerto Rico with jurisdiction over matters of a domestic nature. Presumably, the United States power to determine Puerto Rico's foreign policy would include the power to determine its oceans policy. Section 2(a) of the draft bill would grant Puerto Rico jurisdiction over its seas and seas adjacent to Puerto Rico. This language could be construed to authorize Puerto Rico, in the exercise of its sovereignty over its seas, to extend unilaterally its jurisdiction over oceans adjacent to its territory or territorial sea in conflict with United States policy in the ongoing law of the sea negotiations. Accordingly, we recommend that a sentence be added to section 2(a) to read: "The Free Associated State of Puerto Rico shall exercise its national sovereignty over its seas in a manner consistent with the foreign policy of the United States."

It is not clear from the wording of this section whether the coastwise laws of the United States, which cover the transportation of passengers and merchandise on water between points embraced by the coastwise laws and towing and dredging operations in United States waters (see 46 U.S.C. 289, 292, 315, and 883), would continue to be applicable to Puerto Rico itself, or only to water transportation





between Puerto Rico and the United States. The Department believes the language in this section should be more specific in this regard. We assume that such coastwise laws may continue to apply to Puerto Rican waters provided that the conditions specified under the provisions of section 3(b), are complied with, although this is far from clear. There is also some question of the applicability of other navigation laws such as those relating to entry and clearance of vessels (see 19 U.S.C. 1434 and 1435 and 46 U.S.C. 91) and to the fisheries (46 U.S.C. 251 and 16 U.S.C. 1081-1094). Another question relates to the applicability of laws relating to aircraft, such as the report of arrival requirement, air cabotage prohibitions, etc.

The above-stated questions are raised in spite of and particularly in light of section 12(a), which states that "The laws of the United States applicable to the Free Associated State on the date of approval of this Compact shall continue in effect except to the extent repealed or modified by this Compact or incompatible with it, and except as hereafter modified, suspended or repealed in accordance with law." It appears that section 2(a), is, in fact, incompatible with said section 12(a), and that clarification is especially warranted in view thereof. Examples of how the draft bill might be revised to specify applicable statutes are 19 U.S.C. 81e and 43 U.S.C. 1333(c) to (g).

Section 2(d) would authorize Puerto Rico to participate in international organizations and to enter into international agreements with other countries with respect to, inter alia, financial and commercial relations consistent with the functions of the United States, as determined by the President of the United States and the Governor of Puerto Rico on a case by case basis. This provision would authorize Puerto Rico to join organizations, such as the GATT, the IMF, and the IBRD and to enter into financial and commercial agreements with other countries. Puerto Rico's exercise of this authority could conflict with United States international economic and foreign policy. The draft Compact of Free Association which the United States has negotiated with the Trust Territory of the Pacific Islands (Micronesia) provides for the United States to have full responsibility for and authority over the foreign affairs of Micronesia while enabling Micronesia to become a member of certain international organizations of which the U.S. is a member, to enter into agreements with certain international organizations of which the U.S. is a member, and to request the U.S. to negotiate certain types of bilateral agreements which would apply to Micronesia. The preferable, most consistent course of action may be to make section 2(d) less broad by revising it along the lines of similar provisions in the draft Micronesian Compact.

Section 2(d) should also be modified to provide specifically that Puerto Rico may not enter into income tax agreements with other countries covering matters generally handled by conventions for the avoidance of double taxation.



Section 4

This section should be carefully restudied and redrafted. The thrust of the provision is unclear in the light of present income tax provisions of the Code. We would recommend that this section be drafted to provide that the income tax laws presently in effect will remain in force except as may specifically be provided to the contrary. Exceptions should then be carefully and specifically stated. Our specific objections to this section are summarized below.

1. It is unclear whether Puerto Rico would continue to be a possession for purposes of the Code. Section 7701(c) of the Code presently provides as follows:

Sec. 7701. Definitions.

"(c) Commonwealth of Puerto Rico. Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico."

Even in the event Puerto Rico is to continue as a possession, this paragraph (c) must be modified to refer to Puerto Rico as the Free Associated State of Puerto Rico. A number of other income tax provisions of the Code would also have to be amended to change formal references to Puerto Rico or reconsidered in view of the proposed compact.

2. Section 931 of the Code provides an exclusion from gross income for United States corporations carrying on a trade or business in Puerto Rico but only if certain conditions are satisfied. Such corporations may often be treated as resident in Puerto Rico by virtue of having engaged in business in Puerto Rico and, as such, would be exempt from United States taxation of income from sources within Puerto Rico under section 4(b) without satisfying the conditions of section 931.

3. Section 4(b) would provide that the Federal income tax may be imposed only on the U.S. source and the foreign-source income of Puerto Rican residents, and that in computing the Federal income

tax on such amounts a credit would have to be allowed by the United States for the Puerto Rican tax imposed on the same income.

Under present law, Federal income tax is imposed on the U.S.- and foreign-source income of Puerto Rican residents, but Puerto Rican-source income is excluded from gross income under section 933 of the Code where the taxpayer is a "bona fide resident" of Puerto Rico. The U.S. - and foreign-source income of Puerto Rican residents is also subject to Puerto Rican income tax, but Puerto Rico allows a foreign tax credit for the U.S. tax imposed on such income. 26 P.R.L.A. § 3131(b)(2). The proposed Compact would thus retain the first rule but change the foreign tax credit rules.

The Department would have no objection to a rule which required the United States to grant a foreign tax credit for the Puerto Rican income tax imposed on foreign-source income, because that is the rule which would be in effect under Federal law if Puerto Rico did not allow a tax credit, for Puerto Rican purposes, for the U.S. tax imposed on such income. The Department would object, however, if the United States were to be required to give a foreign tax credit for the Puerto Rican tax imposed on U.S.-source income. At the present time, most U.S.-source income received by Puerto Rican residents escapes U.S. tax anyway, because Puerto Rican residents are entitled to claim the standard deduction, personal exemptions for all dependents, and if married to file a joint return with respect to U.S. - and foreign-source income subject to U.S. tax. The amount of additional tax that Puerto Rico would collect if such a change were instituted, moreover, would be only about \$7 million annually. If the United States were to agree to such a rule, however, there might be pressure to grant similar rights to foreign countries in our income tax treaties.

4. Section 933 of the Code exempts from taxation income derived from Puerto Rican sources by an individual resident there only if he was a Puerto Rican resident for his entire taxable year (or if he had been such a resident for the 2 years preceding his change of residence from Puerto Rico). Section 4(b) has no similar requirement of residence for the entire year.

5. Section 4 seems patently inconsistent with paragraphs 1 through 3 of section 7651 of the Code which provide for administration and collection of taxes in possessions. Is it the intention of section 4 to repeal these provisions as they apply to Puerto Rico?

6. There are a number of other provisions of the Code not pertaining to the income tax which have special application to Puerto Rico. See, for example, section 5001(a)(10), relating to distilled spirits; section 5314, relating to applicability of certain laws to Puerto Rico; section 7652, relating to shipments from Puerto Rico to the United States; and section 7653, relating to shipments from the United States to Puerto Rico. The Department is uncertain of the impact of section 4(a) upon such sections. This should be clarified.

Section 5

Section 5(a)(3) apparently would require the United States to exempt from Federal taxes the interest earned on Puerto Rican government bonds, and Puerto Rico to exempt from Puerto Rican taxes the interest earned on bonds issued by the United States and by the States and political subdivisions thereof. This would confirm present law, section 103(a)(1) of the Code, and 26 P.R.L.A. § 3022(b)(4)(A).

Section 5(b) would direct officials of the United States and Puerto Rico to assist each other in the execution of their respective functions when compatible with their legal responsibilities and authority. The Department would be opposed to officials of the Internal Revenue Service or Customs Service collecting taxes of the Free Associated State.

Section 8

The Department recommends that section 8 of the proposed compact be amended to insert "and Coinage" in the heading and to read as follows:

"The currency and coinage of the United States shall be the exclusive currency and coinage of Puerto Rico. The laws of the United States relative to currency, coinage, gold and silver shall apply to Puerto Rico."

Section 9

Section 9(a) would prohibit the United States from imposing excise taxes on articles imported into the United States from Puerto Rico, and would prohibit Puerto Rico from imposing excise taxes on articles imported into Puerto Rico from the United States. We question whether the ramifications of such a proposal are fully understood. The effect of the proposal would be to repeal the Federal excise taxes on Puerto Rican rum, tobacco products, and refined gasoline that are imported into the United States, and which account for about \$100 million in Federal tax collections each year. Of this amount, about \$60 million (attributable to alcohol and tobacco tax collections) is rebated by the U. S. Treasury to the Puerto Rican government. If the proposal were adopted, therefore, Puerto Rico would lose the \$60 million which it now receives in rebates from alcohol and tobacco collections, and the United States would lose the remaining \$40 million in revenue attributable to gasoline tax collections.

The effect of the second half of this proposal -- which would prohibit Puerto Rico from imposing excise taxes on articles imported into Puerto Rico from the United States -- would probably have a much more severe impact on Puerto Rico than the first. The Puerto Rican Treasury is heavily dependent on excise taxes on imported goods, much more so than is the U. S. Treasury, and we understand that an emergency 5 percent excise tax on all imported goods was recently imposed in order to help balance the Puerto Rican budget. All Puerto Rican excise taxes are applied equally whether the goods are imported from foreign countries, or from the United States.



Section 9(b) purports to limit generally the applicability of section 739, title 48, United States Code, which states that "The same tariffs, customs, and duties shall be levied, collected and paid upon all articles imported into Puerto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries. All books and pamphlets printed in the English language shall be admitted into Puerto Rico free of duty when imported from the United States."

Section 9(c) would require that the income from customs duties, licenses for imports, tariffs and taxes collected in Puerto Rico be paid into the Treasury of Puerto Rico. Current law requires only that income from duties and taxes collected in Puerto Rico shall be paid into the Puerto Rican Treasury. 48 U.S.C. 740. The intent of the proposed section 9(c) obviously is to require that the import license fees on petroleum collected in Puerto Rico also be paid into the Puerto Rican Treasury.

The Administration has agreed, however, that only that portion of the oil import license fees collected in Puerto Rico attributable to imported oil consumed in Puerto Rico should be covered over to the Puerto Rican Treasury. If the full amount of the fees were paid over, Puerto Rico would receive a windfall to the extent that the fees were not borne by Puerto Rican consumers. Accordingly, the language "licenses for imports" should be deleted from section 9(c).

It is unclear whether section 9(c) applies to income taxes. If so, it would be inconsistent with section 7651(2)(A) of the Code, which provides that all taxes collected by the Secretary in Puerto Rico must be paid into the Treasury of the United States. On this point, section 7809 of the Code is very relevant, since it provides that collections under the internal revenue laws must be paid into the United States Treasury unless otherwise provided. One of the exceptions is under section 7652(a)(3), which provides that certain collections of internal revenue taxes in Puerto Rico are to be covered into the Treasury of Puerto Rico, after deduction of expenses under section 5314(a)(4).

Section 9(d) would authorize Puerto Rico to levy, increase, reduce or eliminate tariffs on goods imported into Puerto Rico from foreign countries or transshipped through the United States, provided that it exercises this authority "in a manner consistent with the international obligations of the United States and after prior consultation and coordination with the Federal authorities concerned." In addition, exercise of this authority would be conditioned upon the establishment of procedures mutually agreed upon by the United States and Puerto Rico to (1) assure conformity with international obligations; (2) assure that articles containing components shipped or transshipped from Puerto Rico to the rest of the United States customs territory or from there to Puerto Rico conform respectively to the laws; and (3) assure continuous communication and coordination between the United States Executive Branch and Puerto Rico on economic and trade policy and implementation.

Section 9(e) would prohibit any article imported into Puerto Rico at a tariff rate lower than the applicable U. S. tariff rate from being shipped to any other point in the United States customs territory unless the appraised value on shipment contains at least 35 percent in value added in Puerto Rico.

Section 9(d) would grant Puerto Rico wide latitude to establish separate tariffs. In view of the fact that most U. S. tariff rates are bound under the GATT, its authority to increase tariff levels above the U. S. rates would be limited by the requirement that such increases be consistent with United States international obligations. Puerto Rico would have, however, virtually unlimited discretion to reduce or eliminate tariffs.

The economic relationship between the United States and Puerto Rico presently represents a true common market possessing unrestricted trade between the two areas, a common currency, common economic policies, and a common external tariff. The proposed compact would take a step backward from a common market and economic union.

The proposed compact would create a free trade area with different external tariffs. The United States has discouraged free trade agreements for sound commercial policy reasons. Free trade agreements lead to trade distortions because trade can respond to differences in tariffs between the two areas rather than differences in relative efficiencies.

There are practical problems in maintaining free trade between two areas with different external tariffs. A major difficulty lies in preventing goods from being imported into the area with the lower tariff for re-exportation to the high tariff area, thereby avoiding the latter's higher tariffs. To some degree this problem is mitigated by rules of origin and other regulations, but loopholes always remain.

Section 9(e) of the proposed compact would attempt to deal with this problem by requiring that 35 percent of value of an imported product be added in Puerto Rico before it can be shipped to the United States. This is similar to the rule of origin applicable to our Generalized System of Preferences (GSP), which was authorized by the Trade Act of 1974. However, the GSP provisions contain built-in safeguards, e.g., the tariff preferences are applicable only to nonsensitive products, and are subject to a \$25 million limit. Escape clause relief is available if such imports cause or threaten injury. None of these safeguards would apply to Puerto Rico under the compact. Thus, goods could be imported into Puerto Rico, processed sufficiently to meet the 35 percent rule, and then exported to the United States duty free without limitation. The absence of safeguards, or of any other measures to prevent injury to U. S. producers, makes the proposal unacceptable on practical as well as policy grounds.

Subsection (d) would also provide that "Puerto Rico shall continue to enjoy the right to levy tariffs upon or otherwise to restrict the import of coffee from foreign countries or the United States." However, under current law, Puerto Rico has authority only to impose duties on imports of coffee from foreign countries or from the United States if the coffee is grown in a foreign country. 19 U.S.C. 1319. The Department is opposed to this provision to the extent that it would modify existing law.

Finally, with regard to customs procedures, the Department is uncertain of the overall applicability of section 2(b) and section 3(b) to duty on vessel repairs (19 U.S.C. 1466) and tonnage tax (46 U.S.C. 121 and 128), and of the applicability of the Outer Continental Shelf Lands Act and the Deepwater Ports Act of 1974.

Section 12

Section 12(a) would provide that the laws of the United States applicable to the Free Associated State shall continue in effect except to the extent repealed or modified by the compact, or incompatible with it.

There should be specific listing of the proposal's effect on relevant laws rather than reliance on the general statement in section 12(a).

Section 12(b) would provide that no new Congressional enactments would be applicable to Puerto Rico except as provided in subsections (c) and (d). Subsection (d) would provide that laws which directly affect the rights and duties of citizens and the security and common defense, and laws which relate to foreign affairs and currency would apply. It is unclear whether it is intended that future Federal tax legislation affect Puerto Rican citizens. It is uncertain if payment of taxes would be considered a duty for purposes of the Compact and whether application of Federal tax legislation to Puerto Rico would be essential to United States interests and would be compatible with the Compact.

Section 12(e) would provide that new Federal rules, regulations, and orders will be applicable to Puerto Rico over its objection if the promulgating authority makes a finding and declaration that application to Puerto Rico is essential to the interests of the United States and compatible with the Compact. Subjection of such declarations to judicial review will add to the uncertainty of whether specific Federal tax rules, regulations, and orders may affect Puerto Rican citizens.

To summarize, it is not clear from the proposed compact what legal status is intended for the Commonwealth of Puerto Rico. If it is intended that Puerto Rico be treated as a foreign country for purposes of the Internal Revenue Code of 1954, this should be expressed. In the alternative, if Puerto Rico is to be considered a possession, this should be stated. The proposed compact may represent an attempt to assign to Puerto Rico a legal status heretofore unknown and unrecognized or contemplated by the Code. If this be the case and this compact were adopted, many provisions of the Code would have to be amended to clarify their application to Puerto Rico. Further, new provisions may have to be added to the Code to deal exclusively with matters of income taxation involving both the United States and Puerto Rico.

If one of the objectives of the proposal is to foster the development of Puerto Rico as a tax haven in order to boost its economy, consideration should be given to whether subpart F (secs. 951 and following) of the Code is incompatible with such an objective.

Section 16

Section 16(d) would require that the U. S. District Court not intervene to prevent the collection of any tax imposed under Puerto Rican law. It appears to us that such a rule might be unconstitutional under article III, § 2 of the United States Constitution where the tax in question violated the Compact between the United States and Puerto Rico. This is because the Compact would be passed in the form of an Act of Congress, and any violation by the Puerto Rican government of the Compact would probably constitute a Federal question. The Department of Justice should consider this issue.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

November 5, 1975



SUBJECT: Report of the Ad Hoc Advisory Group on Puerto Rico

FROM: J. Phil Campbell, Acting Secretary /s/

TO: James E. Connor, Secretary to the Cabinet
The White House

We have reviewed the Report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union Between Puerto Rico and the United States". In particular, we are concerned with the implementation of such provisions as those contained in Article 3, Legal Title to Crown Lands and Navigable Waters; Article 12, Applicability of Federal Laws; Article 13, Assignment of Federal Functions to the Free Associated State; Article 15, Judicial Review; and Article 18, Ecology.

It is not possible to determine from either the proposed compact or the commentary contained in the report, the manner in which the provisions of the Compact would in fact be administered by the Free Associated State. We do not, therefore, know precisely the degree to which programs of the Department of Agriculture would be affected in the event of ratification of the Compact. However, we have noted below some of the problems which might arise for the Department and Puerto Rico if the Compact is adopted:

1. Article 3. Legal Title to Crown Lands and Navigable Waters.

Subsection a. of this Article transfers title to all land and other property of the United States in Puerto Rico acquired by cession under the treaty of peace with Spain to the government of the Free Associated State. USDA administers such Federal lands in Puerto Rico as those within the jurisdiction of the Forest Service and the Agricultural Research Service. To the degree that title to these lands was acquired by the United States under the treaty of peace with Spain, they would be transferred to the Free Associated State. Although the United States could continue to hold to and use such property for public purposes, disputes as to the exercise of rights by the United States in lands, the timber thereon, any any other propriety interests it may have therein might arise between the Department of Agriculture and the Free Associated State.

2. Article 12. Applicability of Federal Laws.

In general this Article provides the laws of the United States applicable to Puerto Rico on the date of approval of the Compact will continue in effect unless they are repealed or are "modified by this Compact or incompatible with it." In addition, laws enacted by Congress in the future would not be applicable to the Free Associated State unless such laws explicitly referred to the Free Associated State and were incompatible with the Compact. Further, the Free Associated State would have the right to object to the applicability of future laws prior to their passage and if the committee of Congress concerned expressed agreement with such objections the Free Associated State would be exempt from such laws. Rules, regulations and orders issued by USDA and other agencies of the United States would apply unless they are incompatible with the Compact. While the agency involved would have the right to decide whether a rule, regulation, or order applied to the Free Associated State, that determination would be subject to judicial review. These provisions of the Compact would significantly change the relationship which now exists between the United States and Puerto Rico with respect to the effectiveness of Federal laws and regulations in Puerto Rico. In the case of USDA such a change might impair the ability of the Department to carry out programs of the Forest Service, Farmers Home Administration, and the Food and Nutrition Service. The latter two programs involve the expenditure of large amounts of money in Puerto Rico and operations under these programs might require substantial change if the Compact were ratified and the Free Associated State exercised its rights under this Article to challenge the applicability of future legislation and regulations.

3. Article 13. Assignment of Federal Functions to the Free Associated State.

This Article contemplates that the United States would, from time to time, transfer certain of its functions to the Free Associated State if that State agreed to perform them. Provision is also made for maximum flexibility in the use of funds appropriated by Congress for the Free Associated State consonant with the purposes and objectives of the appropriations so that the use of the funds may be adapted to circumstances considered relevant by the State to the administration of whatever program might be involved. Under this Article it appears that agencies of the Federal Government, such as USDA, could transfer operations such as those involved in the food stamp program or the programs of the Farmers Home Administration to

the government of the Free Associated State for administration of that jurisdiction. The Article, under certain circumstances, would permit utilization of funds appropriated by Congress for such programs in the Free Associated State in a manner different from that applied in the United States, if that state concluded that because of different economic, social and administrative conditions modifications in the program were appropriate.

4. Article 15. Judicial Review.

Provision is made in this Article for concurrent jurisdiction for the courts of the United States and of the Free Associated State with respect to justiciable questions arising under the Compact. Actions involving such questions brought in the courts of the Free Associated State may not be removed to the Federal District Courts. While in the final analysis review might be had by the Supreme Court of the United States from decisions on such questions, it would be possible for disputed issues involving the applicability and construction of the terms of the Compact to USDA programs to be heard by the courts of the Free Associated State, even though substantial Federal questions might be involved.

5. Article 18. Ecology.

This Article would vest the primary authority to regulate the ecology and environmental quality in Puerto Rico in the Free Associated State. It is possible, therefore, that the government of that State might change or modify existing principles of law relating to the protection of the environment. Such changes would impinge upon programs of the USDA in Puerto Rico. In particular, it would seem likely that operations of the Forest Service in its management of Federal lands in the State would be most immediately affected.

It is possible that further analysis of the Compact would develop more fully these and other concerns with respect to areas of Departmental administrative responsibility. The proposed Compact is, of course, drafted in broad terms and much of the practical impact which could occur if the Compact were adopted cannot be determined without operating experience. Accordingly, the comments above should be considered as merely suggestive of areas for consideration, discussion and analysis.



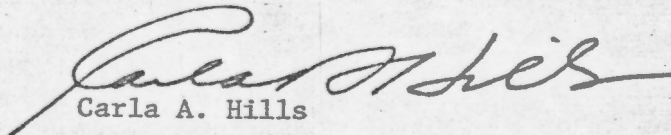
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

NOV 6 1975

MEMORANDUM FOR: James E. Connor
Secretary to the Cabinet
The White House

Subject: Report of the Ad Hoc Advisory Group on Puerto Rico

The report entitled "Compact of Permanent Union Between Puerto Rico and the United States" has been circulated for review within this Department. Since the document does not deal directly with issues which fall under this Department's purview, it would be inappropriate for us to make recommendations.


Carla A. Hills



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 7 1975



Dear Mr. Connor:

This responds to your memorandum of October 23, 1975, in which you have requested my comments and recommendations concerning the Report of the Ad Hoc Advisory Group on Puerto Rico.

This Report, which in essence is a draft "Compact of Permanent Union Between Puerto Rico and the United States," represents an important step toward a new relationship between the United States Federal Government and the Commonwealth of Puerto Rico. As noted in the Letter of Transmittal to the President and the Governor of the Commonwealth of Puerto Rico, the Compact represents the consensus of the Ad Hoc Advisory Group, and as such is subject to several reservations by members of both the United States and Puerto Rican Delegations. I, too, have certain reservations on the Draft Compact as enumerated below.

In general, the Compact bestows all the benefits on Puerto Rico of a permanent union with the United States without imposing the attendant obligations and responsibilities. It appears to weaken the sovereign relationship of the United States to Puerto Rico by granting Puerto Rico certain exceptions that do not apply to the several states or territories.

Specifically, Section 2 of the draft Compact would permit the Free Associated State of Puerto Rico to participate in international organizations and conclude agreements with foreign countries covering a wide range of subjects. This is contrary to the stand the Federal Government has taken with other U.S. territories such as Guam where they have been denied permission to participate in international organizations. Granting Puerto Rico this privilege could redound to the detriment of the Federal Government in future discussions with other U.S. territories regarding their relationship with the Federal Government.

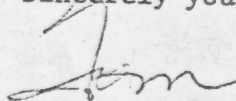


Section 9, Common Market, expands on the international, sovereign aspect of Puerto Rico under the Compact by having the "Free Associated State of Puerto Rico" accepted as an associated developing state which can participate in all the benefits from any regional or worldwide system of preferences for developing countries. This is contrary to the fact of U.S. sovereignty and responsibility with respect to the conduct of foreign affairs and should not be approved. Also in this section, Puerto Rico would, while remaining in the U.S. customs territory, permit duty free imports of material for processing, provided that not less than 35% in value is added in Puerto Rico before shipment to the United States market. While this value added provision applies in Guam and the Virgin Islands, both of these territories are outside the U.S. customs territory. Granting this privilege to Puerto Rico would affect adversely the income Guam and the Virgin Islands now receive from this value added benefit.

There is a need, as set forth in Section 10, for Puerto Rico to control to some degree the flow of immigration to the Island. The influx of large numbers of poor, uneducated and untrained aliens into an already economically depressed area makes a difficult situation even more untenable. However, application of the provisions of this section would have to be monitored carefully by the United States Immigration and Naturalization Service to insure that the provisions of Section 10 were not abused or misused.

In the last analysis, this Report and recommended draft Compact proposing a new relationship between the United States Federal Government and its territory, Puerto Rico, should go forward to the United States Congress, but with the clear understanding that it is not a definitive document and is subject to debate, change and many compromises before it finally postulates a "permanent" relationship.

Sincerely yours,



Secretary of the Interior

Mr. James E. Connor
Secretary to the Cabinet
The White House
Washington, D. C. 20506



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DEPARTMENT OF STATE

Washington, D.C. 20520

UNCLASSIFIED

October 30, 1975

MEMORANDUM FOR LIEUTENANT GENERAL BRENT SCOWCROFT
THE WHITE HOUSE

Subject: Report of the Ad Hoc Advisory Group
on Puerto Rico

The Department was requested by memo of October 23, 1975 from Mr. James E. Connor to submit comments and recommendations on the Report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union Between Puerto Rico and the United States." Our comments and recommendations are attached.

A handwritten signature in cursive script, reading "George S. Springsteen".

George S. Springsteen
Executive Secretary

Attachment:

As Stated

UNCLASSIFIED

COMMENTS AND RECOMMENDATIONS OF THE DEPARTMENT
OF STATE ON THE REPORT OF THE AD HOC ADVISORY GROUP
ON PUERTO RICO ENTITLED "COMPACT OF PERMANENT UNION
BETWEEN PUERTO RICO AND THE UNITED STATES"



Sections 2(d), 9(d), (e) and (f), and 10 of the proposed Compact are of particular interest to the Department of State. With certain differences these sections were included within the April 12 draft of the Puerto Rican delegation to the Ad Hoc Advisory Group, and the comments transmitted to Mr. Cook by the Legal Adviser on May 2, 1975 remain applicable.

Section 2(d) permits the participation of the Free Associated State of Puerto Rico in international organizations, as well as in certain types of agreements with other countries. It is noted that the provision requires for participation in international organizations a determination on a case-by-case basis by the President of the United States. The Department believes that such a requirement adequately protects the responsibility of the Federal Government for the conduct of Puerto Rico's foreign relations in this area. We also note that past experience has demonstrated the advisability of obtaining Congressional concurrence for Puerto Rican membership in certain international organizations; nothing in Section 2(d) would prevent seeking such concurrence in the future. As a general rule, the Department believes that agreements with other countries should be concluded by the United States on behalf of, and with appropriate consideration of the interests of Puerto Rico or by Puerto Rico with the prior concurrence of the Department, and the Congress where appropriate, and recommends that the text of the Compact so indicate. U.S. delegations concerned with negotiating such agreements would, of course, include appropriate Puerto Rican representation.

Section 9 deals with Common Market and Trade. ~~Compact.~~ Section 9(d) of the Compact authorizes the Free Associated State to levy, increase, reduce or eliminate U.S. tariffs and quotas on imports from foreign countries, in a manner consistent with the international obligations of the United States, and subject to certain specified provisos. This provision would nullify the commonality of tariff treatment currently enjoyed by the United States and Puerto Rico,

which has heretofore been a cornerstone of the Common Market concept. It would also permit actions contrary to the U.S. national interest as reflected in current U.S. quota or other import restraint programs (e.g., textiles). We assume that other interested agencies (i.e., Commerce, Treasury, STR, Agriculture and Labor) will be commenting on these problems as well.

We, therefore, recommend that the language in Section 9(d) regarding "mutually agreeable procedures" be made sufficiently specific to avoid the problems cited above.

Section 9(e) would permit Puerto Rico to import from other countries materials and articles duty-free for subsequent shipment and sale to other parts of the U.S. Customs territory (again without paying U.S. duties) provided that the F.A.S. shipping price contains at least 35% value added in Puerto Rico. This provision would authorize treatment similar to that accorded developing countries in the U.S. Generalized System of Preferences, but would not be subject to any of that program's controls or limitations. Thus, products excluded by law from our GSP would be eligible for duty-free entry from Puerto Rico. A number of agencies (e.g., Commerce, Labor, STR, Agriculture, Treasury, Customs) will undoubtedly oppose this idea, and State also has reservations.

Section 9(f) includes, inter alia, three provisions relating to the conduct of ~~the~~ Foreign Policy:

1) It obligates the U.S., in international trade negotiations, to take into account Puerto Rico's state of economic development and to promote its interests by seeking the most favorable conditions for Puerto Rico's exports;

2) It accords observer status to Puerto Rico within U.S. negotiating delegations;

3) It obligates the U.S., upon request and after consultation and agreement, to seek for Puerto Rico acceptance as an associated developing state qualifying to participate in benefits from systems of preferences for developing countries.

The Department of State has no objection in principle to the provisions of this Subsection. However, we would prefer to limit the scope of the language concerning Puerto Rican participation in so-called "negotiating delegations." Many such delegations are very small and deal with technical aspects of trade. In practice, it would be difficult to assure in every case that representation of the Free Associated State could be included. It is consequently recommended that the wording of this provision be changed to:

"The U.S. shall accord the Free Associated State opportunity to participate, as part of U.S. delegations, in general trade negotiations, and in those specific trade negotiations where the interests of the Free Associated State are substantial. Representatives of the Free Associated State in such delegations shall be kept fully informed and shall be consulted concerning negotiating positions and decisions of interest to them."

In reference to the final point (seeking to obtain acceptance of Puerto Rico as an associated developing State), while the Department accepts in principle such a commitment, we must note for the record our opinion that other developed nations are unlikely to grant generalized trade preferences to Puerto Rico unless they can be assured that goods from the United States are not diverted through and exported as products of Puerto Rico.

Section 10 of the Compact authorizes the President of the United States and the Governor of the Free Associated State to make adjustments in the number of aliens admitted to Puerto Rico. The Department has no objection to the establishment of what is, in effect, a separate immigration system for Puerto Rico. However, the establishment of such a system will require careful planning and, we believe, legislative modification of the Immigration and Nationality Act, specifically the definition of the United States in Section 101(a)(38).

As a final point for the record, the Department wishes to note that under existing arrangements the U.S. passport issuance function is currently administered by the Governor of Puerto Rico. The Department suggests that the practice should be examined with a view toward conformity with preferable Federal procedures - such an examination could occur during the legislative process attendant to the Compact, or at a later time by and upon the establishment of the Joint Commission as envisaged in Section 14 of the Compact.



*Frances
Knight.*

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

NOV 10 1975



Mr. James E. Connor
Secretary to the Cabinet
The White House
Washington, D.C. 20500

Dear Mr. Connor:

This is in reply to your request of October 23, 1975 for my comments and recommendations on the report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union between Puerto Rico and the U.S."

In April 1975, I had a request to comment on the draft report, from Marlow W. Cook, Co-chairman of the Ad Hoc Advisory Group on Puerto Rico. A copy of my response of May 6 to Mr. Cook is enclosed. Except with respect to Section 2 of the Compact, the comments I made at that time were not incorporated into the final report and several substantive concerns remain unanswered. For these reasons I am unable to endorse the Compact in its present form.

We regret the delay in providing this information to you.

Sincerely,

A handwritten signature in cursive script, appearing to read "John F. Schultz". The signature is written in dark ink and is located below the word "Sincerely,".

Secretary of Labor

Enclosure

LL-3 May

110-4

MAY 6 1975

X
Mr. Marlow W. Cook
Co-Chairman
Ad Hoc Advisory Group on
Puerto Rico,
1016 16th Street, N.W.
Washington, D.C. 20036

Dear Mr. Cook:

This is in reply to your request for my comments on the proposed bill "To Establish the Compact of Permanent Union Between Puerto Rico and the United States."

I am in general agreement with the underlying purpose of the proposed compact which, if adopted, would establish a permanent relationship between Puerto Rico and the United States. However, I have serious reservations concerning several of the provisions and their effect upon rights of workers in Puerto Rico.

UNEMPLOYMENT INSURANCE

Sections 4(a) and 6(b) of the proposed compact would have an effect upon the Federal unemployment insurance system of which Puerto Rico is a part. The Puerto Rican unemployment insurance law is an approved law under the Federal Unemployment Tax Act and meets the requirements of Title III of the Social Security Act. Puerto Rico qualifies in the same manner as a state for purposes of the Federal-State unemployment insurance system. It pays Federal-State extended benefits and is reimbursed 50 percent of the cost of such benefits by the Federal Government. In addition, Puerto Rico is eligible for Federal supplemental benefits payable under the Emergency Unemployment Compensation Act of 1974 and advance payment of benefits under Title III of the Social Security Act. Puerto Rico has, in fact, applied for an advance of \$10 million to pay benefits in April 1975.

It is not clear whether the proposed compact would prevent the continuation of Puerto Rican participation in the

FILE COPY
Office of the Secretary

Initials

Federal-State unemployment insurance system. The UI program is supported by a Federal tax payable by employers under the Federal Unemployment Tax Act. Section 4(a) of the proposed compact which makes internal revenues laws of the United States inapplicable to Puerto Rico is qualified by section 6(b). Section 6(b) would preserve the application of grant and loan programs " * * * to the citizens of the United States residing in the Free Associated State of Puerto Rico." The Federal Unemployment Tax Act, the keystone of state participation in the UI system, is not limited to a state or its citizens. It applies broadly to employers and employees in the United States, irrespective of whether they are citizens. Further, section 3304(a)(9)(A) of the Act specifically precludes a state from denying unemployment benefits to an otherwise eligible individual solely because he is residing in or filing his claim in another state or Canada. Accordingly, Puerto Rico might fail to qualify for Federal benefits.

The remainder of section 6(b) and section 6(c) and (d) are unclear as to whether the Free Associated State would assume full responsibility for collecting revenues to support programs such as unemployment insurance. No decision has been made at this time as to what system of contributory payments will be initiated and when it will be initiated. It seems clear, however, that Puerto Rico is unable at the present time to support an unemployment insurance program without Federal assistance. It would be a tragic mistake to discontinue the flow of benefits to workers in Puerto Rico because of the failure of Puerto Rico to qualify under the Act.

WORKER ADJUSTMENT ASSISTANCE

Section 9 of the proposed compact would continue the free flow of goods to and from the United States and Puerto Rico. Section (c), however, would require customs duties and other similar taxes to be paid into the Treasury of Puerto Rico. While we would defer to the Treasury Department with respect to substantive comments on this section, we note that this would provide Puerto Rico with preferential treatment with regard to such tax collections not available to the states at large. Of importance to the Department of Labor is section (d) which might preclude workers in Puerto Rico from receiving worker adjustment assistance under the Trade Act of 1974.

Section 9(d) would authorize Puerto Rico to impose, increase, reduce or eliminate tariffs on finished products, semi-finished, agricultural or raw materials imported directly from foreign countries or transhipped through the United States. The Trade Act of 1974 specifies that in order for a group of workers to be eligible for adjustment assistance, the increase of imports must contribute importantly to the required adverse effect of the workers and their employers. While this section of the Trade Act does not refer specifically to tariff changes, the legislative history of the Act indicates that such assistance was deemed necessary to offset the adverse effects on workers that might result from the exercise of the trade negotiating authority provided in the Act. If Puerto Rico is empowered to raise or lower tariffs unilaterally, the rights of adversely affected employees under the Trade Act would be nullified.



ENTRY OF ALIENS INTO PUERTO RICO

Section 10(a) of the proposed compact would enable the Government of Puerto Rico to limit the number of aliens or to increase the quota of resident aliens who may be admitted to Puerto Rico with the concurrence of the President and the Government. I assume that since this is a separate section in the compact, any program affecting aliens such as the Department of Labor's alien certification responsibility would be considered under the immigration and naturalization laws rather than the general labor statutes. With this understanding, I defer to the Bureau of Immigration and Naturalization for substantive comments on this section. I would hope, however, that this section would not be used to import lower paid workers into Puerto Rico so as to deprive citizens of employment.

THE FAIR LABOR STANDARDS ACT AND RELATED ACTS

Section 17(a) of the proposed compact would effectively revise the application of the Fair Labor Standards Act to Puerto Rico. It provides that the minimum wage in Puerto Rico should be equivalent to the minimum wage in

the United States as soon as economically possible, but reserves to Puerto Rico the authority to set the minimum wage and hours of work standards except for shipping and aviation and certain other enterprises. In the most recent amendments to the Fair Labor Standards Act, the Congress set a schedule for the eventual achievement of parity of minimum wage rates in Puerto Rico with those in the states. The amendments also extended the applicable mainland rates for employees of restaurants and hotels, food service employees of retail or service establishments and employees of the Federal Government to such employees in Puerto Rico. As a result of industry committee actions since the enactment of the 1974 amendments, a large number of workers in industries in Puerto Rico are reaping the benefit of minimum wages close to those for state-side workers. While we recognize the unique economic and employment situation existing in many industries in Puerto Rico, we would nonetheless, be opposed to provisions which would adversely effect workers in the Commonwealth.

It is not clear as to the meaning of those "enterprises whose products or services are sold or rendered substantially in the United States" which would be subject to the Fair Labor Standards Act. If this category is intended to cover the so-called "run-away shop," then it should be made clear that this will include industries which, in one or more of their operations, compete substantially with their counterparts in the states. For example, the clothing industry sells over 50 percent of its output in Puerto Rico, but at the same time, because of wage and tax advantages, has virtually cornered the market in military hats and caps.

The proposed language dealing with minimum wages and maximum hours does not specifically refer to child labor, age discrimination and equal pay and thus may not relieve Puerto Rico employers from compliance with these requirements. In fact, giving Puerto Rico "exclusive jurisdiction over all matters pertaining to labor-management relations" may not be broad enough to exclude Puerto Rico from the provisions of Title VII, ADEA and equal pay. However, if this provision was interpreted to exclude these categories from FLSA or other coverage, then there would be no protection for persons affected by the various acts at present unless and until Puerto Rico enacted comparable laws. This also should not preclude the application of existing Federal

Laws. The Department of Labor has fought for these issues for many years and, particularly in the case of child labor, would be opposed to any provisions which would abrogate these rights.

SERVICE CONTRACT, PUBLIC CONTRACTS, CONTRACT WORK HOURS AND RELATED ACTS

The Service Contract Act, Walsh-Healey and the Contract Work Hours and Safety Standards Act do not apply to contracts issued by the Government of Puerto Rico or its agencies. However, contracts issued by the United States to be performed in Puerto Rico for work on service contracts would be affected by section 17(a) of the compact. To eliminate this protection while not preserving the FLSA minimum otherwise specified in SCA could result in a disastrous lowering of wages for some workers. Similarly, wage determinations under Walsh-Healey are not applicable to Puerto Rico, but are governed by FLSA or by a minimum established by industry committees. This protection for workers will be lost with the adoption of the compact as now written.

Although the Davis-Bacon Act is not applicable to Puerto Rico, many of its related statutes, such as the National Housing Act, 12 U.S.C. 1715(c) contain labor standards that apply directly to Puerto Rico. The labor standards in these related acts are aimed primarily at preventing economic disruption of the economy of a locality by insuring that local contracting firms are not subjected to unfair competition from outside the locality and pay wages which are substandard for the locality in which the Federal public works are to be constructed. The very difficulties that Congress sought to remedy in 1931 with its enactment of the Davis-Bacon Act could occur in Puerto Rico.

OCCUPATIONAL SAFETY AND HEALTH ACT

Section 17(c) of the compact would reserve to Puerto Rico exclusive jurisdiction over matters related to occupational safety and health. For Puerto Rico to exclude itself from coverage under the Occupational Safety and Health Act of 1970 without having an equally effective program in its place would constitute a grave disservice

to its workers. Section 18 of the Act provides a viable means under which Puerto Rico could administer its own program and obtain financial assistance from the Federal Government. Section 18 provides that a state would have jurisdiction under its own law for any occupational and safety issue in which no standard is in effect under section 6 of the Act. A state can assume responsibility for the development and enforcement of occupational safety and health standards where a Federal standard has been promulgated under section 6. Grants are made to the states under section 23(g) for the purpose of assisting it in administering and enforcing programs for occupational safety and health contained in state plans approved by the Secretary of Labor pursuant to section 18. Thus, if the Act applied to Puerto Rico, it would have the benefit of the Federal expertise developed by OSHA and NIOSH and, in addition, could receive 50 percent funding for the implementation of its program from the United States.

INTERNATIONAL LABOR ORGANIZATIONS

Section 2 of the proposed compact recognizes the jurisdiction and authority of the United States to conduct foreign affairs. However, section 2(a) proposes that Puerto Rico shall belong to international organizations and make unilateral non-political agreements with other countries.

The Department of State is charged with the conduct of foreign affairs on behalf of the United States, including participation in international organizations. By agreement with the State Department, the Department of Labor participates in the formulation of policy with respect to the International Labor Organization. The ILO is an international organization which would be included in the proposal to permit independent membership by Puerto Rico.

Puerto Rico's present inability to participate in international organizations relates to its status as neither an independent nation nor a territory, (some international organizations permit territories to be admitted to membership). ILO, however, has not adopted a system of "associate" membership for states which cannot be admitted to full membership. In the past, some political entities achieved full membership in ILO before achieving full sovereignty, but one of the requirements is that the entity must have

autonomy in labor matters. At the present time, Puerto Rico does not have such autonomy. Even under the compact as it is proposed, Puerto Rico would not have autonomy over all aspects of labor matters related to Puerto Rico and thus would probably be excluded from membership in ILO. While there are many areas in which international organizations operate in which it would be mutually advantageous to Puerto Rico and the United States for Puerto Rico to participate, we would be opposed to such participation without the approval of the Executive Branch or the Congress.

CONCLUSION

There are many other aspects of the proposed compact to which we would pose objections or request clarifications. Some of our objections are in areas not directly related to labor laws and I would defer to those agencies which have a primary interest in the subject matter.

I am most concerned, however, with the impact on workers in Puerto Rico if the Federal labor laws are abrogated. I feel that the compact as it now stands is ambivalent as to the position which Puerto Rico wishes to maintain in this regard. It is my opinion that working men and women will suffer irreparable harm should they be deprived of the protection of Federal labor laws. Because of the many deficiencies which I see in the compact in this respect, I cannot endorse it in its present form.

Sincerely,

John T. Dunlop

Secretary of Labor

PERSONALLY /S/ BE
THE SECY OF LABOR



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Rewritten:SPPetters:btr 5/2/75

VAIME BENITEZ
RESIDENT COMMISSIONER, PUERTO RICO

COMMITTEE:
EDUCATION AND LABOR

SUBCOMMITTEES:
EQUAL OPPORTUNITY
LABOR STANDARDS
POSTSECONDARY EDUCATION

COMMITTEE:
INTERIOR AND INSULAR AFFAIRS

SUBCOMMITTEES:
TERRITORIAL AND INSULAR AFFAIRS
ENERGY AND ENVIRONMENT
WATER AND POWER RESOURCES

Congress of the United States
House of Representatives
Washington, D.C. 20515

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AREA CODE 809: 724-0171

Box 128
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AREA CODE 809: 843-5640

November 5, 1975

James H. Falk, Esq.
Domestic Council
The White House
Washington, D. C. 20500

Dear Mr. Falk:

I enclose herewith a photostat copy and an English translation of the letter I have just received from the Governor of Puerto Rico. Governor Hernández-Colón is deeply concerned with the risks involved in a potentially protracted period of consultation at the Executive level, as a condition precedent to the transmittal to Congress, of the report and proposed Compact of Permanent Union between Puerto Rico and the United States recommended by the Joint Advisory Group.

As I explained to you yesterday, several members of the Subcommittee on Insular Affairs, as well as many other colleagues in the House of Representatives, have expressed doubts as to the feasibility of affirmative action upon our proposal if it is placed in the legislative hopper later than the close of the present session of Congress. As you may recall, it was with a keen awareness of the time factor involved that I sent to you early in August a copy of the Compact proposal itself, before the accompanying report was finished, urging you to use it in an informal basis for purposes of initiating the second round of consultations. The first round of consultations was effected by co-Chairman Senator Marlow Cook shortly after receiving our original draft in March 1974.

I am deeply aware of the prerequisite of full consultation and reports before definite endorsements or qualifications may be made by the President to the Congress concerning our recommendations. I trust the necessary reports may be forthcoming shortly. I understand some have already been received. If such a goal cannot be achieved in time to insure enough lead time to permit congressional action as well as the required referendum in Puerto Rico before next November, I trust it may be feasible to transmit the report and the proposed Compact to

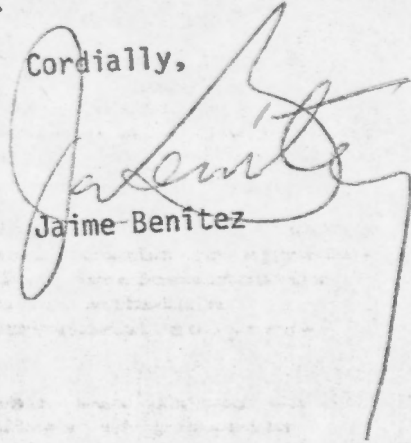
James H. Falk, Esq.

-2-

November 5, 1975

the Congress with such recommendations and reservations as may be forthcoming now. A procedure of this nature would facilitate taking care of the initial process in the Congress without prejudice of subsequent recommendations to be made by the White House once the rest of the reports have been received and studied. I assure you that both the Governor and myself will be most appreciative of the earliest consideration of this request.

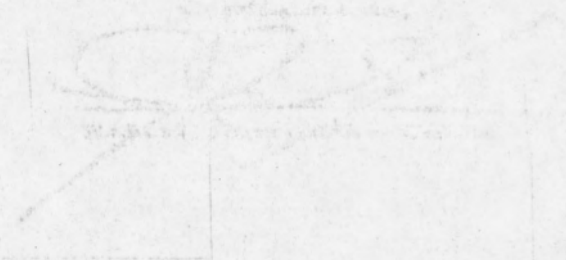
Cordially,



Jaime Benitez



Encl.





*El Gobernador del
Estado Libre Asociado*

DE PUERTO RICO

5 de noviembre de 1975

Hon. Jaime Benítez
Comisionado Residente
Washington, D. C.

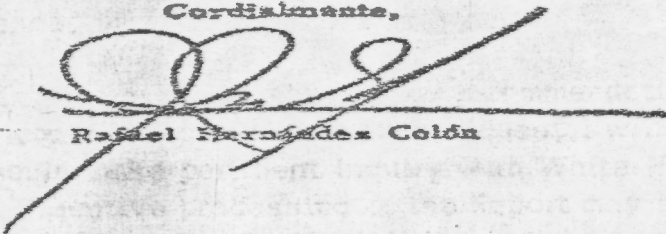
Estimado Don Jaime:

El Presidente del Comité de lo Interior del Senado, al igual que el Presidente del Subcomité correspondiente de la Cámara, me han indicado su interés de comenzar en breve la consideración Congressional del Convenio de Asociación Permanente entre Puerto Rico y los Estados Unidos, recomendado por el Comité Ad Hoc.

Comoquiera que las recomendaciones del Comité se encuentran pendientes ante la Casa Blanca, mucho le agradeceré haga las gestiones pertinentes con los funcionarios de ésta, de modo que se pueda coordinar la tramitación Ejecutiva del Informe con la acción Congressional en perspectiva.

Es mi interés que el nuevo convenio sea objeto de consideración Congressional antes de finalizar el presente Congreso y a tiempo para ser sometido para su ratificación por el pueblo de Puerto Rico durante el presente mandato Constitucional.

Cordialmente,



Rafael Hernández Colón

JAIME BENITEZ
RESIDENT COMMISSIONER, PUERTO RICO

COMMITTEE:
EDUCATION AND LABOR

SUBCOMMITTEES:
EQUAL OPPORTUNITY
LABOR STANDARDS
POSTSECONDARY EDUCATION

COMMITTEE:
INTERIOR AND INSULAR AFFAIRS

SUBCOMMITTEES:
TERRITORIAL AND INSULAR AFFAIRS
ENERGY AND ENVIRONMENT
WATER AND POWER RESOURCES

Congress of the United States
House of Representatives
Washington, D.C. 20515

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November 5, 1975

Honorable Jaime Benítez
Resident Commissioner
Washington, D. C.

Dear Don Jaime:

The Chairman of the Interior Committee in the Senate of the United States, and the Chairman of the corresponding Subcommittee in the House of Representatives, have indicated to me their interest to begin shortly the Congressional consideration of the Permanent Compact of Association between Puerto Rico and the United States, recommended by the Ad Hoc Committee.

Inasmuch as the Committee recommendations are presently pending consideration in the White House, I will be deeply grateful if you would make pertinent inquiry with White House officials, so that the Executive processing of the Report may be coordinated with contemplated congressional action.

It is my concern that the new compact be considered by the Congress before the end of the present session, and in time to be submitted for ratification by the People of Puerto Rico during the present Constitutional mandate.

Cordially,

Rafael Hernández Colón

Translated by: Jorge Felices



THE WHITE HOUSE

WASHINGTON

November 13, 1975



MEMORANDUM FOR: JIM CANNON

FROM:

SAM HALPER *SH*

SUBJECT:

HANDLING THE PUERTO RICO ADHOC REPORT

As the matter now stands there is a strong likelihood that we will propose that the President send the Report to the Hill for debate with the recommendation that Congress consult with the involved cabinet officers and consider the issues with due, deliberate speed.

I have very serious reservations. Handling the report this way may well result in such prolonged consideration on the Hill as to produce precisely the result that the Puerto Rico administration most fears--that it will not be possible to act upon the Report before the 1976 election. In any event it will bring by Puerto Ricans the charge that the Ford administration sabotaged the status change proposed by the Popular Democratic Party because the PDP is affiliated with the Democratic Party.

In my judgement it would best to communicate very privately to the Governor the situation: that proper work on the proposal by the Executive Branch would take some two months. That the President prefers that it be done that way. That the Executive Branch believes that such procedure, the normal procedure, would probably facilitate the chances of a satisfactory result. That the Executive Branch, on the other hand,

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recognizes the desires of the Puerto Rican government to move at once on the matter. If the Governor states to the Executive Branch his desire for immediate transmission to Congress the President *will,* *regretfully but understandingly,* accede to his wishes. He will send the Report to Congress without recommendation. He will ~~and~~ propose that Congress consult on the issues with the pertinent Cabinet members and that it facilitate ~~its~~ consideration *with* due, deliberate speed.



THE WHITE HOUSE

WASHINGTON

INFORMATION

November 13, 1975

MEMORANDUM FOR: JIM CANNON

FROM: SAM HALPER ~~XXXXXXXXXX~~

SUBJECT: PUERTO RICO AND THE MINIMUM WAGE

If employment in Puerto Rico is not facilitated, the United States will have to pay for the emission in the form of 1) increased federal aid to the poor and jobless in Puerto Rico; 2) increased federal (and state and local) aid to the many unemployed Puerto Ricans who migrate to the mainland and, unable (or unwilling) to find work, are jobless here as well, thus requiring that they be maintained on the public rolls and 3) the growth, under conditions of prolonged joblessness in Puerto Rico, of a psychology of unemployability among youth who will never know what it means to work, as well as the spread of that attitude to older unemployed. The increased unrest and addiction to welfare statism that will suffuse Puerto Rico will add to the federal government's burdens and costs.



THE WHITE HOUSE
WASHINGTON

*File
Puerto Rico*

November 14, 1975

MEMORANDUM FOR: JIM CANNON

FROM: JIM FALK *JF*

Attached are the options on transmittal of the Proposed "Compact of Permanent Union" To Congress.

Attachment



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THE WHITE HOUSE

WASHINGTON

November 14, 1975

Options on Transmittal of the Proposed
"Compact of Permanent Union" to Congress

1. Transmit to the Congress before 12/15/75 with a recommendation for appropriate Congressional Action.

- . This is essentially without recommendation.
- . It does represent fast action as requested by the Resident Commissioner, Jaime Benitez, and the Governor.
- . It would probably be acceptable to those in Puerto Rico who opposed numerous aspects of the proposed Compact.

2. Transmit to the Congress before 12/15/75 as in Option 1 indicating that the Administration comments will follow in depth on various aspects of the proposal through both written and oral expression before various Congressional Committees.

- . It satisfied the request of the Governor and Resident Commissioner for fast action.
- . This should make both advocates and opponents in Puerto Rico happy because it reserves comments enabling their views to be stated to the Congress along with the Administration.
- . It avoids holding up a fixed target for our critics to kick. On a document this broad there would be something for everyone to kick about if a comprehensive position was set forth.

3. Prepare a detailed analysis with a full set of specific recommendations for the President to make on the Compact.

- . This would fail to satisfy Jaime Benitez and the Governor because of the time (2 months x 2 1/2) required to do so.
- . This would not satisfy those in Puerto Rico who oppose parts of the Compact and who would object to some of the proposals the Administration would take.
- . The delay would assure that no one would be happy.