

POSITION PAPER ON STATEHOOD FOR GUAM

(Researched and prepared by the

Guam Statehood Task Force)

Submitted on March 31, 2000.

1. EXAMINING THE STATUS AS A SOVEREIGNTY

Prologue:

Our society has grown from clannish enclaves of small villages hundreds of years ago to a sophisticated community of over 160,000 people. As a clannish community, tradition and parental authority were adequate to maintain discipline and order. Guam was rarely visited by outsiders to influence our authority and discipline and modern technology was non-existent to threaten our traditional way of life.

That was over a 100 years ago. Since then, many events have altered our peaceful and tranquil way of life. Today, Guam's population has tripled with a diverse profile that it must be organized as a political community with a local government empowered to make rules and regulations and enforce them.

That government must be able to protect its citizens from enemies from within and without. Because other nations with ill intentions may want Guam for its location and natural resources, Guam must be strong enough to repulse such intentions. Modern technology, however, makes us vulnerable from practically anywhere in the Pacific rim.

Guam today and in the future must be able to ensure its safety and security, internally and externally. It must provide a way of life which promotes peace and equality to all who make it their home. Its government must be able to guarantee liberty and freedom, human and civil rights, due process of law, protection of life and property, and preserve the Chamorro culture and tradition in harmony with the present diverse population.

History has shown that countries around the world have progressed in various forms of government—from monarchy, imperialism, autocracy, oligarchy to parliamentary, communism and democracy—as they emerged to form a new world order. But of all the prevailing forms of government, the desire of most people throughout the world today is some sort a democratic form of government, particularly the American form of republican democracy which is guided by a written Constitution.

While many sovereign countries claim to be democratic in form, they are different in practice, especially in the area of human and civil rights, protection of life and property, and the right to free speech and free assembly.

The Americanization of Guam:

After having been colonized by Spain for over 300 years, the fate of Guam and its inhabitants once again changed hands. During the Spanish-American War at the tail end of the 19th century, Navy Captain Henry Glass sailed the USS Charleston into Apra Harbor and fired a few

volleys to begin the invasion of Guam. A small garrison of Spanish soldiers, poorly armed and without gunpowder to fire their out-moded cannons, were not aware of the war and had no choice but to surrender the island without resistance.

That signaled the take-over of Guam in 1898, this time by the United States of America. Under the Treaty of Paris¹ signed in 1899 Spain formally ceded Guam to the U.S. and charged the U.S. Congress to determine the political status of the inhabitants of Guam. At the end of World War II, the United Nations was established under a charter in which the U.S. was a principal signatory. Along with many other colonized territories, Guam was categorized as a non-self governing territory. The administering nations—in our case the United States of America—pledged to help develop their economic, social and educational potentials and to allow the “native inhabitants” to evolve into a political status of their own choosing when the time was right.

From 1945 to the present, the many non-self governing territories have exercised political self-determination. Some chose to remain part of their administering nations; other chose to become independent. Guam is one of the very few non-self governing territories that has yet to exercise political self-determination. But this is not to say that Guam and its people have been stagnant through all these years. To the contrary, they have come a long way since 1898 and have grown in strength and stature in terms of social, educational, economic and political development. They have evolved from a sleepy little island of pre-WWII years to become a dynamic, fast-developing U.S. territory enjoying all the modern technologies and amenities of the 21st century.

Today, Guam continues to experience dramatic economic growth that outpaces its neighboring territories in Micronesia. Guam is a modern community of typhoon-proofed homes, shopping malls, modern highways and road system, and a modern health care system. Guam also can take pride in its 50-channel cable TV network, a highly-developed telecommunications system, and an unparalleled education system that includes public and private schools, a community college and the University of Guam.

Indeed, Guam’s progress in the last 100 years is unrivaled in the western Pacific. Politically, Guam has also achieved significant milestones. Its transformation was a slow and sometimes culturally painful process. At times, it was humiliating but the resilience of the Chamorro spirit somehow triumphed in the end. With hardly any civil rights and having no say in governmental affairs, the people of Guam remained steadfast in embracing U.S. democracy and its promise of life, liberty and the pursuit of happiness. Although the use of Chamorro language in school instruction was prohibited until the introduction of mandatory Chamorro language courses two decades ago, they learned well in classes taught in English. They were also adept in assimilating the American way of life—cars, movies, pop music, hot dogs and hamburgers, baseball and other forms of sports and recreation—in the first 50 years under the U.S. flag.

The people of Guam also learned well their lessons in political science. They elected members of the pre-war Guam Congress, an advisory body to the Naval government in 1917; in

¹ The peace treaty signed in Paris, France by Spain and the U.S. at the end of the Spanish-American War of 1898 is better known as the Treaty of Paris. In that treaty, Spain ceded Guam, the Philippines and Puerto Rico to the U.S. It also stipulated that the political statuses of these territories be determined by Congress. The Philippines opted to become independent in 1946 and Puerto Rico was granted a U.S. Commonwealth status in July 1952.

1936, with the backing of the local community, they sent two of its members, Francisco B. Leon Guerrero and Baltazar Bordallo, to Washington D.C. to petition for U.S. citizenship for the island's indigenous inhabitants. The petition, however, was not granted, with the Navy Department strongly opposing it.

Five years later the people of Guam were put to the greatest test of loyalty when the island was occupied by the enemy in 1941 at the start of World War II in the Pacific. The two and a half years of Japanese occupation challenged the Chamorro's spirit and character. Despite horrific atrocities inflicted on them, they kept their faith in God and nurtured their patriotism to the U.S. and their hope that Uncle Sam would return soon. Scores of Chamorro patriots—among them Father Jesus Baza Duenas who was beheaded rather than give aid to the enemy—suffered torture and physical abuses. Many went to their death rather than capitulate. Undoubtedly, the bullets and sabers of the occupiers were no match to the love for freedom and democracy in the hearts of the Chamorros.

Five years after the war ended, the citizenship overture of 1936 became a reality. In August 1950, Congress enacted the Organic Act of Guam² that established limited self-government and conferred U.S. citizenship upon the inhabitants. The people then started electing members of their 21-member unicameral Legislature. Some 20 years later, Congress enacted in 1970 a law that enabled the people to vote for their first elected governor, thus ending presidential appointments. A decade later, Congress established a non-voting delegate to the House of Representatives.

Today, we stand at the threshold of exercising political self-determination as embodied in the Treaty of Paris and in the United Nations Charter. The paramount question is: Where do we go from here?

Statehood as Guam's ultimate future:

The plebiscite to be conducted by the Commission of Decolonization created by Public Law 23-147 provides the indigenous inhabitants of Guam the first opportunity under United Nations' endorsement to formally declare their political preference. The plebiscite will constitute an act to decolonize Guam—that is, to be removed from the U.N. non-self governing territory category. By U.N. reckoning, the plebiscite should offer three options: statehood, independence and free association.

Statehood will fully integrate Guam, now an unincorporated territory, as a full and equal partner into the Union of the United States of America. It is an ultimate status, just like the two previous U.S. territories—Alaska and Hawaii—attained in 1959 when Congress finally voted to admit them as states of the Union.

Achieving statehood, as demonstrated by the experiences of Alaska and Hawaii, involves a long, tedious and often frustrating process. Both Alaska and Hawaii began making statehood overtures in the early 1900s. Both started to crystallize their aspirations to become a state, and both saw a series of legislative measures introduced in Congress seeking admission squashed in oversight committees. But both persevered despite these setbacks, and in the early 1940s both

² The Organic Act of Guam was crafted by members of Congress to address a growing tension between the civilian populace and the naval administration. The tension was precipitated when in 1949 members of the Guam Congress, an advisory body, walked out of session in protest to unfair treatment.

reinforced their past efforts and re-energized their drive by mobilizing the entire populace and intensifying their lobbying in Washington D.C.

There is no specific qualification for statehood under the Constitution. Article IV Section 3 of the U.S. Constitution simply reads in part: "New States may be admitted by the Congress into the Union ..."

Skeptics, however, would say that Guam is too small in land area and population size to qualify. The Constitution has no requirement for a minimum land area or a minimum population size for admission into the Union. It should be noted that when Alaska was admitted in 1959, it had a population of 209,000 and was larger than only one other state. Eight states, at the time of their admission, had less than 100,000 population and two with less than 50,000.

Congress, however, has invoked three traditional standards³ for admission as a State. They are:

• *That the inhabitants of the proposed new state are imbued with and sympathetic towards the principles of democracy exemplified in the American form of government.*

Most certainly, the people of Guam meet this standard with flying colors. The history of Guam's evolution since it was ceded to the U.S. in 1898 to the present is full of episodes demonstrating the people of Guam's appetite to live free in a democratic society.

They elected in 1917 members of the pre-war Guam Congress, an advisory body to the Naval government and in 1936 sent two of its members to Washington D.C. to petition for U.S. citizenship. Guam's experience during enemy occupation in WWII is a good case in point. The Chamorros suffered torture, death, humiliation, forced labor but did not capitulate to the enemy. Their patriotism to the U.S. is unquestionable. For the past four decades Guam has been proclaiming, as its tourism slogan, that "Guam is where America's day begins."

• *That the majority of the electorate desire statehood.*

The outcome of the coming plebiscite will give the first indication, as will other efforts in the future to advocate Guam's full integration with the U.S. In retrospect, the people of Guam had clearly expressed their political preference for closer relationships with the U.S., which could mean ultimately statehood, with possible interim status as a commonwealth. In the mean time Guam will remain at "status quo" until such time when statehood is attained.

A 1976 political status referendum showed the following results: 51% voted for improved status with the U.S., 21% for statehood, 8% for status quo, 5% for independence.

In 1980, the 15th Guam Legislature commissioned a public opinion poll. On the question of "Political status preference," the voters responded: 37% for U.S. territory, 30% statehood, 8% commonwealth, 6% free association, 4% independence.

In a political self-determination plebiscite conducted in January 1982, the people voted on these options with the following results: Commonwealth 49%; Statehood 26%; Status Quo 10%; and Incorporated territory, Free Association and Independence each garnered 4%. It should be noted that only 37% of the registered voters went to the polls and cast their ballots.

Since none of the options received a majority of votes, a run-off was held in conjunction with the 1982 primary elections which attracted 82% voter turnout. Commonwealth garnered

³ Extracted from the Study on Statehood prepared for the 1982 self-determination plebiscite. The study was commissioned by the Commission on Self-Determination and prepared by Ventures Inc.

73% while statehood made a slight gain at 27%. In all elections, the overwhelming majority of voters opted for closer relationship with the United States. Since Commonwealth is an intermediate status leading toward statehood, it is reasonable to deduce that the people of Guam may ultimately support statehood in the coming plebiscite. The other two options— independence and free association—will disintegrate Guam from the U.S.

• That the proposed new state has sufficient population and resources to support state government and to provide its share of the cost of Federal Government.

The question of population arose with respect to Hawaii and Alaska. When admitted to statehood in 1959, Hawaii's population was approximately 530,000 and Alaska 209,000. At present, Guam has about 160,000. Both Hawaii and Alaska experienced dramatic economic growth after achieving statehood. The same could be true with Guam in this part of the world.

Because of our close proximity to the Asian rim countries, Guam can foster U.S. economic and defense interests in this part of the world, and serve as forward defense from possible Asian threats, particularly China and North Korea.

Achieving statehood, as experienced by Alaska and Hawaii, could be a long process that may take years—depending on how forceful and persevering our lobbying efforts are. Guam must convince Congress that Guam statehood would be mutually beneficial for Guam and the nation. It can argue that because of its proximity to Pacific-Asia rim countries -- three jet hours from Japan and the Philippines, four hours from Korea, mainland China and Hong Kong, five hours from Australia and Indonesia -- Guam, as a state, would be in the best interest to the nation's economic and security interests. It would enhance the nation's defense posture because of the island's strategic location relative to the Pacific and Asia rim countries.

The economic security and national defense aspects were elements considered by Congress when deliberating statehood for Alaska and Hawaii. Alaska was looked upon to provide a northern defense buffer zone against the Soviet Union at the heights of the Cold War era and Hawaii to extend the nation's defense perimeter in the Pacific further west from the Pacific coast. In addition to the military strategic value, Hawaii also was viewed as a bulwark in extending America's economic and political influence closer to the Asian rim.

Similar considerations should also be valid in the case of Guam statehood. There is no question as to its strategic defense value relative to possible threats from Asian nations. And U.S. economic interests and security will be greatly enhanced since Guam is at the gateway to Asia to provide leverage for increased trade and economic activities.

At the same time, statehood would fulfill Guam's aspiration to achieve equality through full integration with the U.S. Resources to support the state government and contribute to the Federal government will be sufficient in due time. Guam's economic growth has been in the upswing in the past three decades, and there are indications it will continue in the new millenium. Statehood may take a decade or two before it could possibly become a reality for Guam.

In the meantime, Guam's tourist industry is fast catching up with that of Hawaii, and its growth in the last decade exceeded prior expectations. Its tourist room tax paid by various hotels yielded about \$13 million last year, and although presently experiencing a stall due to the Asian financial crisis, it is forecast to continue growing considerably in the years to come. Other economic development potential, such as tuna fishing, ship repair facilities, captive insurance industry, trust and banking services are promising catalysts for economic prosperity.

Contrary to popular beliefs, the Chamorro culture and traditions will be enhanced and promoted because of tourism.

What will statehood mean to the people of Guam?

The “Americanization” process of the indigenous inhabitants began almost immediately after the take-over from Spain in 1898. The people of Guam learned well under U.S. tutelage. Administered by a series of naval governors, who were also the military commanders of Guam, schools were built and curriculum similar to those taught in U.S. mainland schools were taught to the island’s young men and women of school age. In addition to the traditional three Rs (Reading, Writing and Arithmetic), there were courses in history and civics. They were taught about the American way of life, the American system of Government, and the principles of democracy.

The naval administration also built a naval hospital, conducted health clinics and trained local nurses to improve the people’s health care, built roads and basic infrastructures, introduced music and competitive sports, and other forms of recreation and entertainment. As early as the 1930s, Guam had a commercial movie theater which showed American films of the time.

Having learned well, the Chamorros assimilated the American mindset—particularly their desire to be treated with equality and dignity. Since then and to the present, the most common frustration is with the apparent insensitiveness of U.S. laws and policies handed down either by Congress or the White House without local consultation. The people of Guam want to be treated as equals, especially since they were made U.S. citizens in 1950. This deep-rooted aspiration will be fully realized in statehood for Guam.

As a state⁴, Guam will:

- Achieve **equality** or equal footing with all other states and enjoy the same powers, rights, entitlements and privileges as well as assume the responsibilities of statehood.
- Enable U.S. citizens who are residents of Guam to **vote for the President and Vice President** of the United States.
- Have **voting representatives in Congress**. The state of Guam will be entitled to two Senators and one House of Representative member with full voting powers. It should be noted that Guam will not be the only state with one seat in the House. In fact, there are seven other states — namely, Alaska, Delaware, Vermont, North Dakota, South Dakota, Montana and Wyoming — with one seat because their small population size.
- Enjoy **full protection of the U.S. Constitution and permanent citizenship** under the 14th amendment. Since our present citizenship was acquired from Congress under the 1950 Organic Act of Guam, it is under a separate classification. Some believe that its permanency may be compromised, especially as it would impact on their descendants born outside the U.S. jurisdiction. Should Guam decide to cut loose from the U.S. by opting for either of the two other status in the plebiscite, Congress has the power to repeal the act and Guam will no longer be under U.S. sovereignty.
- Receive protection from external threat or hostile aggression under the **national defense umbrella**. The U.S., under the Constitution, will be responsible for defending Guam and

⁴ Extracted from the Study on Statehood prepared for the 1982 self-determination plebiscite. The study was commissioned by the Commission on Self-Determination and prepared by Ventures Inc.

maintaining peace and tranquillity. The people of Guam have taken this for granted all these years because of the island's strategic role in the nation's defense posture. Little did they realize that the military presence here, especially during the pre-war years, was dictated by military goals.

It is no wonder that during World War II Guam was not fortified militarily and was left defenseless against enemy invasion. The current situation is probably as precarious since the military's presence has been downsized to the bare minimum. Guam does not have any viable air defense system on island and this should be a grave concern to the people of Guam who are highly vulnerable to missile attacks from China or North Korea.

- ◉ Have **equal opportunities** to partake in federal revenue sharing, federally-funded programs, entitlements, grants and aids as with the other states. This will mean millions of dollars in windfall than what Guam is receiving as a territory and this could soften the impact of federal taxes which Guam will remit to the federal government.

- ◉ Have better **leverage in Congress**. In addition to all the federal programs, grants, entitlements and aids, Guam stands to fare better in seeking more funding through appropriation legislation in Congress because of the voting by its two senators and a representative. This could mean another financial windfall for Guam.

- ◉ Attain **increased prestige** when interacting with other nations on the Pacific rim and in Asia. Most certainly, this will enhance Guam's ability to attract outside investments, both from the U.S. and Asian countries, as well as grow its tourist industry.

- ◉ **No longer be administered by the Department of Interior** which has oversight on territorial matters. As a state, Guam will deal directly with Congress and various executive departments and agencies on matters under their purview.

For over 200 years, the United States of America has established a structure of government that has withstood a civil war, two World Wars, economic depression and even poor political administrations. It has an institutional framework which protects and secures the present system which is the envy of all the world. The U.S. is one of a few countries which is committed to perpetuating civil liberties and the protection of minority rights.

2. EXAMINING THE STATUS AND LOCAL/EXTERNAL GOVERNANCE:

The United States of America is a union of states in full and equal partnership with clearly delineated and established powers exercised by the states and the federal government. The U.S. Constitution is the supreme law of the land, a document put together by delegates of each states and ratified by at least two thirds of the states voting. The Constitution defines the sovereignty of the federal government and the sovereignty of the state. All states are on equal footing and treated equitably and uniformly.

As a state⁵, Guam will:

⁵ Extracted from the Study on Statehood prepared for the 1982 self-determination plebiscite. The study was commissioned by the Commission on Self-Determination and prepared by Ventures Inc.

- Have **sovereignty** in all local and state matters, except as to those powers granted to the federal government by the Constitution. These powers include federal jurisdiction on immigration, federal courts, air and shipping rights, anti-trust law, coastal zone management and fishery conservation, labor control, environmental control, foreign relations, national defense and federal taxes.

It should be pointed out that although activities of the federal government normally cannot be regulated by any state, federal agencies can be subject to state regulations if Congress so provides. This could be viewed as a possible window of opportunity for Congress to authorize consultation with Guam in immigration matters and provide some relief from the adverse impact of alien immigration because of our limited resources and small land area.

- Maintain **total control of state/local affairs**, except in those areas expressly granted to the federal government or as may be necessary to maintain the acknowledged powers of the federal government.

- Write its own **state Constitution**. It establishes state's basic powers, rights and jurisdiction and state laws. **Congress cannot alter by legislation the state constitution or hold veto powers over laws enacted by the state legislature**. However, the state constitution and state laws must not conflict with the Constitution or applicable federal laws.

- Have **state sovereignty vested in the people** of the state who may alter or make changes in the government if they so desire. There is nothing in the U.S. Constitution to prevent any state from adopting a system of laws for all or any part of its jurisdiction.

As an unincorporated territory, Congress today maintains authority over Guam under the **Territorial Clause** powers and can negate many of the rights and privileges the people enjoy today. Since Congress established the territorial government under the Organic Act of 1950 (which also conferred U.S. citizenship upon the inhabitants), it could wipe it out by simply repealing the Act. This is conceivable although it is highly improbable.

- Set up a **state government** (executive, legislative and judicial branches), determine qualifications for public offices, and assign pay ranges. The state may create any office for purely state purposes and determine the terms to be held by the person filling that office. The Legislature's power is absolute and may create, abolish, modify their duties, shorten or lengthen the term, increase or lower the salary, or change the mode of compensation.

- Establish a **Legislature**, whose powers to enact laws are absolute in state matters. It determines the number and qualifications for membership, tenure, and removal procedures for state offices and agencies. It can enact all laws to regulate state matters which Congress cannot veto. State laws, however, must comply with the U.S. Constitution and applicable federal laws.

- Set up a **state court system** at all levels, including a state supreme court. At present, Guam's courts were established by virtue of a congressional law.

All states stand on equal footing, irrespective of the limitations imposed upon the previous territorial government. Admission to the Union negates any implied, special limitation of any of the paramount powers of the United States in favor of a state. Equal Footing refers to political rights and sovereignty ... what is inherently state rights and jurisdiction, yet it does have a direct effect on certain property rights.

Upon admission as a state⁶, Guam will:

- **Pledge to abide** with the U.S. Constitution and provide support to the national government. This means assuming its obligations and responsibilities as a member of the Union and pledging to comply with the provisions of the Constitution and federal laws, and contribute for the maintenance of the Federal government.

- Acquire all the **powers of sovereignty** previously enjoyed by Congress and which belonged to the original states. State sovereignty is vested in the people of the state and the people may alter or change their structure of government at their own pleasure. There is nothing in the Constitution to prevent any state from adopting a system of laws or administration of justice for all or any part of its territory.

- Make **null and void all laws** enacted prior to admission which would cause inequality or conflict with the Constitution and applicable federal laws. However, existing contract rights cannot be affected by admission or change in government.

- Continue to hold the **title to all properties** previously owned by the territory, unless changed by Congress.

- No portion of the territorial government or jurisdiction remains after admission. The state, under its own Constitution, will set up the **new state government**, or may adopt the machinery of the territorial government for the time being.

The federal-state relationship will be based on partnership, each supreme in its own jurisdiction. Guam will maintain total control of its state affairs, except in those areas expressly granted to the Federal government under the U.S. Constitution or as may be necessary to maintain the acknowledged powers of the Federal government. This means the state cannot infringe or regulate activities of the Federal government.

Federal immunity is not absolute; it has limitations and qualifications. If there's no federal regulation or policy and Congress has not expressed intent to exclude state regulation, the state regulation is still valid although it imposes some burden on the Federal government. Federal agencies can be subject to state regulation if Congress so provides.⁷

The **powers delegated by the states** under the U.S. Constitution constitute the sovereignty of the Federal government. These powers were designed to provide for the common defense and to promote the general welfare of states of the Union. These include functions and activities which are applicable to all states, and which can best be handled at the federal level, such as:

- **Foreign relations.** The Federal government, through the offices of the Secretaries of Foreign Relations and State Department, handles foreign relations, and this includes offering financial or technical aid to sovereign powers and making treaties with other sovereign nations.

- **National defense.** The Federal government, through its armed services, maintains a well-trained and well-equipped military units for common defense of the nation. They include

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active and reserve units. The state's National Guard has a dual mission -- (federal) national defense and (state) community support in time of emergency or disaster — and is under the peace-time command of the state governor. In case of national emergency, Guard units (individually or collectively) can be called to federal active duty by the President. Federal funds pay for their armament, personnel, supplies and equipment and training for mission readiness.

• **Federal taxes.** Taxation is an unpleasant but important component in running and maintaining a government. Article I Section VIII Paragraph 1 reads:

“The Congress shall have the power to lay and collect taxes, duties, imposts and excises, to pay the debt and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.”

To support and maintain common defense and general welfare of the nation, the federal government levies and collects taxes to generate revenues for this purpose. These levies include individual income, corporate and other excise taxes which the citizens of the states pay into the federal treasury. Congress appropriates these funds to support the federal government operation and to provide federal programs, grants, aids and entitlements equitably to all states.

• **Immigration.** The Immigration and Naturalization Service is the chief federal agency that handles and controls all matters relating to immigration and processing of new citizens. Laws relating to immigration, naturalization and citizenship are addressed in the U.S. Immigration and Nationality Act of 1962.

• **Air rights.** Responsible for controlling aviation activities and air rights over all states. The Federal Aviation Agency and the Department of Transportation oversee and control air activities in nation's sky.

• **Shipping rights.** Responsible for controlling maritime activities and shipping rights.

• **Anti-trust law.** The Justice Department maintains compliance.

• **Coastal zone management.** Maintains law and order of the nation's coastal areas. This includes control and policing of the 200-mile exclusive economic zone (EEZ).

• **Wildlife and fishery conservation.** Responsible for management of natural reserves and fishery activities.

• **Labor control.** The Department of Labor is responsible for implementing the minimum wage law, hazard and occupational safety regulations, and use of alien workers in the country.

• **Environmental control.** Responsible for protection the environment—air, water, soil and natural reserves. The U.S. Environmental Protection Agency is lead agency.

• **Federal courts.** Handle all judicial matters relating to the Constitution and cases arising from federal laws. The Supreme Court is the highest court of the land.

3. EXAMINING THE STATUS AND LOCAL/EXTERNAL GOVERNANCE ON THE ISSUES: ___

a. Land and Natural Resources:

The federal government will have primary control of coastal-zone management and fishery conservation and environmental control. The state will coordinate its activities with the federal government, working cooperatively to develop its land and natural resources.

Guam's land area is comparatively small and its natural resources are limited. However, resources from the surrounding ocean are immense in fishing which has not been developed to the maximum. Studies on the seabed in the vicinity of Guam and the Marianas chain have hinted at large mineral deposits that could be mined in the future.

Also, Guam's pristine beaches, weather and tropical scenery all support the island's fast-growing tourist industry, despite strong competition from Hawaii, the 50th state. Further, Guam's human resources, boosted by skilled immigrants mostly from Asian countries, contributes importantly to the development of land and natural resources. U.S. citizenship carries with it great economic value which may be considered as a economic resource in and of itself.

Federal excess land can be returned to the original owners more quickly through Congress, with Guam having two senators and a representative to debate and vote on crucial matters on the floor.

b. Immigration:

The federal government has exclusive jurisdiction over immigration. The Department of Justice, through the Immigration and Naturalization Service, administers the laws pertaining to the admission and removal of aliens to the United States.

Aliens may enter the United States either as immigrants or nonimmigrants. Immigrants are persons who intend to make the United States their permanent home; nonimmigrants are persons who intend to leave the United States for their homeland or another country upon completion of their reason for being in the United States.

Lawful immigrants have status as permanent resident aliens and enjoy many of the same constitutional benefits as U.S. citizens. One of those privileges is the right to travel freely throughout the United States, including to Guam.

The U.S. immigration and naturalization laws are being constantly re-examined by Congress and there appears to be a growing sentiment in the United States to stem the flood of immigrants, particularly those who enter the United States unlawfully.

In the exercise of its plenary power, Congress could restrict or totally eliminate the ability of nonimmigrant aliens to enter Guam. A step in this direction was taken some years ago when Congress eliminated the ability of H2 temporary workers in the Virgin Islands to adjust their status to that of permanent resident alien. Congress could also enact a law that would prevent immigrant aliens from using Guam as their initial port of entry. While this would not prevent these persons from relocating to Guam after they had been admitted elsewhere in the United States, the inconvenience might be enough to slow the number of aliens immigrating to Guam.

Because Guam is small in land area and because of its close proximity to Asia, the island has been impacted by immigrants wishing to enter the United States. As a state with two Senators and a Representative voting in Congress, Guam will be in a better position, than it is now, to influence Congress to review the impact and provide relief by no longer making the island an initial port of entry for immigrant aliens.

c. Taxation:

Federal income taxes (individual income, corporate and excise taxes) are levied and collected for the federal government by the Internal Revenue Service. These taxes are mirrored in the Territorial Income Taxes which are currently collected and retained by Guam under an arrangement granted by Congress since Guam is an unincorporated U.S. territory. These taxes will be remitted to the federal treasury when Guam becomes a state sometime in the future. How long into the future, no one can say at this time. If the experience of Alaska and Hawaii are to be any indication, it would be several decades.

It should be noted that remitting the federal taxes is not a one-way transaction in which Guam gets nothing in return. To the contrary, Guam will benefit a lot more since it will be able to enjoy revenue sharing, financial aid, programs and entitlements available to all the states.

For example, the Tax Foundation⁸ of Washington D.C. reported that in FY 1998, 31 of the 50 states received more in federal outlay than the amount of federal taxes each paid into the national treasury. New Mexico received the largest windfall, getting back \$1.94 in federal outlay for every \$1 it paid in federal taxes for the year. Hawaii received \$1.51 and Alaska \$1.46 for each \$1 they paid in federal taxes.

The 19 other states that did not fare as well received federal outlay anywhere from 96 cents to 64 cents for every \$1 paid into the national treasury.

State taxes will be imposed as the state sees fit. This could include gross receipt, business privilege tax, real estate, sales tax, use tax and fuel tax which Guam presently collects and possibly a sales tax and/or individual income tax. It should be noted that eight states do not have state income tax and two others only levy taxes on dividends and interest income.

The type of state taxes to be levied will be greatly influenced by the state of the economy and its level of financial viability. To raise needed revenues, the state should spare no efforts to develop to the maximum its existing economic structure plus further grow its economy with new investments by attracting both U.S. and foreign capitals. Guam's economic growth during the past three decades has been dramatic, and the future growth looks promising.

Guam could request annual compensation (payment in lieu of taxes) for the ongoing use of Guam's land and public infrastructure by the federal government, including those land used by the U.S. military, as is done in the District of Columbia.

d. Legal Processes (Judicial)

As a state Guam would continue to enjoy the benefits of a dual court system, one federal, the other local. The local courts would be established pursuant to the Guam constitution and they would interpret the laws of the island. Cases involving federal law would usually be heard in the U.S. District Court. There are instances, however, when Congress grants concurrent jurisdiction so that a state court may also adjudicate a case involving a federal law -- an example is the enforcement of federal wage laws.

Each system has its own appellate process. In the case of the District Court, appeals are taken to the U.S. Court of Appeals for the Ninth Circuit while cases from the Guam Superior Court would be heard in the Guam Supreme Court. Final review is before the U.S. Supreme

⁸ Of the 19 states that received less in capital outlay for each dollar they paid in federal taxes, the amount of capital outlay ranged from 96 cents to a low of 68 cents.

Court, but its jurisdiction is limited to federal questions and thus a case involving only Guam law would not be heard there.

A major benefit of the dual judicial system is that rights guaranteed under the national constitution and laws can be protected through recourse to the federal court system. Each citizen of the state of Guam would enjoy the same federal constitutional privileges as the citizen of any other state.

e. Framework for economic development

To achieve statehood status, the economy of Guam must develop to a point where statehood is sustainable. Every state in the Union evolved economically before developing politically: first as colonies or as territories. Long term preparation is required. A political community cannot assume higher status until ready to support it because once statehood is conferred there is no turning back.

Transition toward statehood offers a secure, focused framework for economic development. Indeed, it may be said that defined political development defines the framework within which the economy must develop to support it.

The United States is the strongest, wealthiest nation in the world. Integrating into the U.S. as a state is like joining the Strong Richman's Club: greater national security, greater economic security, greater stability where sensible rules governing business and investment and employment apply uniformly for all. Statehood is the most reliable status for Guam -- we should work to develop the economy to make statehood viable when that time comes.

Since becoming an American political community, Guam has steadily evolved economically as well as politically. Additionally, Guam has made steady progress at building a civilian economy which is self-supporting and self-reliant. Guam receives but does not depend on federal subsidy. Guam enjoys but is not dependent upon jobs in the federal government sector. Guam has built an impressive civilian economy in a single, post-World War II generation. Guam's next generation can build the economic foundation required to support statehood.

Guam's economic development plan objective should be to support statehood.

f. External financial assistance - Federal funding

Guam, as a state, will receive much more federal funding funneled to the various states through Congressional legislation. These will include direct appropriation for targeted projects and through revenue sharing, funded domestic programs, aids, grants and entitlements.

As a state, Guam will not be able to apply nor accept financial assistance from another sovereign country.

g. Defense

The Federal government provides national defense⁹ through the use of its armed forces. It also protects the nation and the states against rebellion or internal subversion.

Because of our strategic position in the Pacific, the Federal government most likely will fortify Guam to enhance its capability as a forward defense bulwark. This is not only to defend

⁹ Under the Constitution, the federal government provides for the defense of all states from external threats.

Guam and Hawaii but also to shield the mainland U.S. from missile attacks launched by potential Asian rim countries, such as North Korea and China. In view of the mounting global tension and nuclear proliferation, U.S. will be pressed to establish and maintain adequate military strength and facilities as part of its defense system against foreign threats from Pacific-Asia rim countries.

Charged with a dual mission, the Guam National Guard could be expanded and better armed and equipped to assist in defending against foreign aggression.

h. Foreign affairs

The federal government handles foreign affairs that include granting diplomatic recognition and making of treaties with another sovereign nation. The state has no role in this matter. However, the state could negotiate trade and economic arrangements with a foreign government.

i. Individual Rights (Citizenship, nationality, travel, affirmations and protections)

The U.S. Constitution will fully apply and provide full protection of the powers of the state and of individual rights. Unlike the type received under the Organic Act of Guam, citizenship will be conferred on the people of Guam by virtue of the U.S. Constitution.

The Constitution includes the Bill of Rights that enables the citizen to live in peace and tranquility, be protected from abuse or manipulation by the government, and has guaranteed individual rights, such as free speech, freedom to worship, freedom of assembly, right to redress for grievance, right to bear arms, speedy trial and trial by jury, protection from double jeopardy, protection from undue search and seizure, excessive bail and fines, cruel and unusual punishment.

U.S. citizens of Guam are issued a U.S. passport and are free to travel almost any where in the world, but must comply with the host country laws and regulations, such as acquiring a visa. However, there are a number of countries that the U.S. government has placed travel prohibition on its citizens. Travel to and from Guam is unrestricted.

j. Transportation

The U.S. Coastwise Shipping Laws, sometimes referred as the Jones Act, require the shipping of all cargo, fish and fish products between Guam and the United States only on ships that fly the United States flag. This law will continue to apply to Guam as a state. Merchants on Guam claim that this arrangement contributes to higher freight charges than if a foreign flag ship sailing between Guam and the U.S. were allowed to carry cargo at a hopefully lower rate. The increase is slight, however, while the shipping schedule is mandatory to meet Guam's need.

Air and shipping rights are controlled and regulated by the federal government, as in all other states. The Federal Aviation Agency and the U.S. Maritime Commission are the lead agencies.

As a state, Guam will retain its "essential air service designation" by the United States to insure that regular passenger and cargo service between Guam and the U.S. is maintained.

Because of its remoteness to the U.S. mainland, Guam will continue to rely on air transportation primarily for passengers. Travel by jet takes only seven hours to Hawaii, and another four hours to the U.S. west coast.

To lower cost of telecommunications (telex, telephone, satellite and undersea cable transmissions) Guam will continue to be considered “domestic.”

For the time being, Guam will rely on both U.S. and foreign-flag ships to carry most of the cargo to and from Guam. However, luxury cruise liners are beginning to emerge as means of bringing touring passengers to our shores.

k. Probable Implementation Period.

Statehood is a political issue. The ultimate question is whether Guam as a state would be good for the people of Guam and also serve the interest of the United States of America.

Judging from the experience of Alaska and Hawaii, the two newest states admitted in 1959, gaining statehood will take time. But it is attainable, and its attainment will require the total commitment and effort of the people of Guam.

In the meantime, if the people voted for statehood, Guam would remain as it is (status quo) and continue to seek for more improved status while pursuing the ultimate goal of becoming a state of the Union.

The key is the Congress—its willingness to take up Guam’s desire for statehood and voting for its admission. As part of its lobbying efforts Guam should include the “Tennessee Plan” wherein it sends two elected senators and a congressman to lobby full time in the nation’s capital. Alaska and Hawaii used this plan effectively in their statehood drive.

Statehood requires the consent of the U.S. Congress¹⁰. Guam must show that it will be an asset to the United States. With real honest-to-goodness effort and full backing of the people, Guam could become a state within two decades. In the mean time, Guam can acquire an improved status sufficient to consider it as having integrated with the United States, thus meeting the United Nations’ requirement for removal from the “non-self government territory” category. These interim statuses could include improved status quo, commonwealth or Guam could be designated as a federal district like the District of Columbia.

The admission procedure calls for the territory desiring statehood to first petition Congress. Congress passes an enabling act which directs the framing of a State Constitution. After a convention writes a state constitution and Congress approves it, Congress passes an act for admission. Alaska and Hawaii adopted their respective constitution without waiting for an enabling act.

4. EXAMINING THE STATUS AND THE PROBABLE ECONOMIC IMPACT

The probable economic impact on Guam as a state is being examined concurrently by a group contracted by the Commission on Decolonization. As we understand, this study will take the status quo as its base and make certain economic assumptions and extrapolations that could result from each of the political status options. Key to future economic growth and viability is the political stability and protection of law for investments made on Guam. Also, investors normally will look for the type of tax incentives available.

¹⁰ Admission to statehood will be by a vote of Congress. However, the achieve Independence or Free Association, a treaty must be negotiated between two sovereign states and the specific terms of the treaty must be agreed upon by both sides. The treaty or portion thereof may be unilaterally terminated.

Guam, as a state, will attain increased prestige when interacting with other nations on the Pacific rim and in Asia. Statehood will enhance its ability to attract more outside investments, both from the U.S. and Asian countries, as well as visitors and tourists from the region.

When Alaska and Hawaii became states, both experienced dramatic economic growth and increased population base. There is a good reason that Guam would experience similarly and possibly much more. Because of Guam's close proximity to Japan, Korea, the Philippines, Taiwan, China, Hong Kong and Australia, its potential to develop as a tourist mecca and as a trade and finance center in the Pacific is very promising.

Already, Guam is reaping great benefit from its growing tourist industry. As a state, Guam will become even much more attractive for outside investors. This will surely create thousands of jobs, stimulate industrial and commercial activities and funnel increased tax revenues to the state government.

1. Because of Guam's unique situation—small in area, too remote from the U.S. mainland and in close proximity to Asian countries—Congress could possibly enact a legislation to allow consultation with Guam on immigration policies, retention of duty-free status, and liberal economic/trade relations with neighboring nations in the Pacific and Asian region.

There are skeptics who feel that statehood is an impossible goal for Guam. But this is what Thomas Jefferson said about change:

“I am not an advocate for frequent changes in laws and constitutions but laws and institutions must go hand in hand with progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.”

We live in a fast-changing times. With the advent of modern technology, especially in telecommunications and jet travel, the world has shrunk wherein every corner of the globe becomes easily accessible. Guam is no longer isolated; it is in the midst of the changing times.

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