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Date: October 28

Time: 500pm

*due: #10  
5:30*

FOR ACTION: Phil Buchen  
Robert Hartmann  
Jack Marsh  
Alan Greenspan  
Jim Lynn

cc (for information): Jim Connor

Brent Scowcroft  
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: November 10

Time: 530pm

SUBJECT:

Compact of Permanent Union between  
Puerto Rico and the U.S.



ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to Judy Johnston, ground floor west wing

*#  
op 2  
jm*

PLEASE DETACH THIS COPY TO MATERIALS SERMITTED.

If you have any questions or if you anticipate a delay in submitting, please contact the Staff Secretary immediately.

James M. Cannon  
For the President

2. Appoint a special in-house task force to develop an alternative proposal to be submitted to the Congress next January, together with a report outlining your objections to the instant proposal.
3. Inform Governor Hernandez-Colon of Puerto Rico that you have serious problems with the proposed Compact in its current form and suggest that, together, we might profitably use the additional time to jointly develop a more appropriate proposal for submission to the Congress upon its return.
4. Direct OMB, in consultation with the Domestic Council and the National Security Council, to prepare a report outlining your objections to the proposed Compact and suggesting to the Congress that the real issue for debate and resolution is whether Puerto Rico should be made a State of the Union or given its independence.

RECOMMENDATIONS

DECISION

_____	Option 1
<u>gm</u>	Option 2
_____	Option 3
_____	Option 4

Date: October 28

Time: 500pm

FOR ACTION: Phil Buchen  
 Robert Hartmann  
 Jack Marsh  
 Alan Greenspan  
 Jim Lynn

cc (for information): Jim Connor

Brent Scowcroft  
 Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: November 10

Time: 530pm

SUBJECT:

Compact of Permanent Union between  
 Puerto Rico and the U.S.

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

Recommend the following:

That the President (1) inform the Governor of Puerto Rico (either the outgoing Governor or the incoming Governor, as appropriate) that he has serious problems with the proposed compact in its current form; and (2) direct OMB, in consultation with the Domestic Council and the National Security Council, to prepare a report indicating the nature of the Administration's objections for submission to the 95th Congress in January.

Do not recommend that we develop an alternative proposal to be submitted to Congress or that the President meet with the new Governor of Puerto Rico to work out an alternative proposal.

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

*Delby 11/11/76*  
 JAMES M. CONNOR  
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 28

Time: 500pm

FOR ACTION: Phil Buchen ✓  
 Robert Hartmann ✓  
 Jack Marsh ✓  
 Alan Greenspan ✓  
 Jim Lynn ✓ *NC*

cc (for information): Jim Connor  
 Brent Scowcroft ✓  
 Bill Seidman *NC*

FROM THE STAFF SECRETARY

DUE: Date: November 10

Time: 530pm

SUBJECT:

Compact of Permanent Union between  
Puerto Rico and the U.S.

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

10/28/16 5:13 pm  
n

Date: October 28

Time: 500pm

FOR ACTION: Phil Buchen  
Robert Hartmann  
Jack Marsh  
Alan Greenspan  
Jim Lynn

cc (for information): Jim Connor  
Brent Scowcroft  
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: November 10

Time: 530pm

SUBJECT:

Compact of Permanent Union between  
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ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Mr. Hartmann should see  
ajr  
Both Options 3 & 4  
RJA*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAMES M. CONNOR  
For the President

Date: October 28

Time: 500pm

FOR ACTION: Phil Buchen  
Robert Hartmann  
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Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston ground floor west wing

*no comment*  
*JWB*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JAMES M. COLLIER  
For the President

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

November 15, 1976

LIMITED OFFICIAL USE

MEMORANDUM FOR: JIM CANNON  
FROM: BRENT SCOWCROFT *with Joe*  
SUBJECT: Compact of Permanent Union Between  
Puerto Rico and the United States

I have the following comments regarding the proposed Compact:

1. Although I understand that the President is required to submit comments on the proposed Compact, many of the issues raised may now be moot as a result of the recent election in Puerto Rico. That election, at least in a vague way, was a mandate for statehood as opposed to some of the more-difficult-to-characterize thrusts of the proposed Compact. It appears highly likely that the new government in Puerto Rico would want to take a new look at this proposal.

2. In light of these developments, I prefer Option 1.

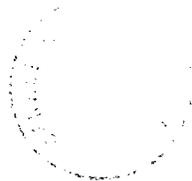
3. I agree that the proposed provisions on navigable waters are objectionable. Serious questions of national security would be raised by acceptance of these proposals.

4. Authorization for Puerto Rico to participate in international organizations and enter into international agreements in its own right likewise would raise serious problems. The problem is not so much comparability with the states, but rather with the proposed infringement on the power and responsibility of the President, with the advice and consent of the Senate, to conduct the foreign policy of the United States. Although commonwealth status is sui generis and would not necessarily need to be parallel with or limited by the rights and responsibilities of the states in all respects, it does seem that the proposed derogation of the President's foreign policy power raises serious constitutional questions as well as the obvious far-reaching practical ones.

LIMITED OFFICIAL USE

5. Option 4, at least as presently stated, presents problems. We are committed to grant independence to Puerto Rico should the Puerto Ricans opt for it. They have not done so. Option 4 seems to raise the possibility of cutting them adrift should we choose to do so. Nor do I believe that independence vs. statehood is "the real issue". The real issue is whether we can carry out the responsibilities that we have assumed toward the people of Puerto Rico in a relationship that does not fit within our present traditional framework but which is tailored specifically to the facts of the case and which will undoubtedly change over time.

All of these considerations strongly suggest Option 1 as the most appropriate response at this time.



MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

November 11, 1975

MEMORANDUM FOR: JEANNE W. DAVIS  
NSC

FROM: JAMES E. CONNOR  
SECRETARY TO THE CABINET

On October 23rd the attached memorandum was sent to all the Cabinet members, including Secretary Kissinger at State Department. We have received responses from all Cabinet departments except State Department. I checked with Mr. Springsteen's office and they report that on October 30th State Department sent a response via the NSC to the attention of General Scowcroft. Could you please let me know the status of this. Otherwise we will have to submit the report to the President minus State Department's comments. Thank you.

encl.

---

*See an response attached*  
*John Murphy*



THE WHITE HOUSE

WASHINGTON

October 23, 1975

MEMORANDUM FOR

THE CABINET

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

Attached is the report of the Ad Hoc Advisory Group on Puerto Rico entitled "Compact of Permanent Union Between Puerto Rico and the United States." Prior to submitting the report to the President, it would be appreciated if we could have the comments and recommendations of the Departments concerned.

It would be further appreciated if your comments could be received by this office by close of business Thursday, ~~October~~ 30, 1975.



JAMES E. CONNOR  
SECRETARY TO THE CABINET

Attachment

MEMORANDUM

NATIONAL SECURITY COUNCIL

7095

November 1, 1975

MEMORANDUM FOR: JIM CONNOR  
FROM: Jeanne W. Davis *JWD*  
SUBJECT: Report of Ad Hoc Advisory  
Group on Puerto Rico

In response to your October 22 query, it is our understanding that Jim Cannon has already acknowledged receipt of the report.

As you note, the formal Executive Branch response to the report is being coordinated by Jim Falk and the NSC Staff.

7095 - add-on

MEMORANDUM

NATIONAL SECURITY COUNCIL

October 31, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: JEANNE W. DAVIS *JWD*  
SUBJECT: Report of the Ad Hoc Advisory Group on  
Puerto Rico

Attached are the Department of State's comments and recommendations on the report of the Ad Hoc Advisory Group on Puerto Rico, responding to Jim Connor's request to the various Departments and Agencies.

MEMORANDUM

NATIONAL SECURITY COUNCIL

October 31, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: JEANNE W. DAVIS   
SUBJECT: Report of the Ad Hoc Advisory Group on  
Puerto Rico

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7095 add-on

DEPARTMENT OF STATE

Washington, D.C. 20520

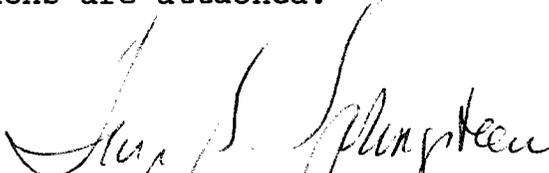
UNCLASSIFIED

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.

  
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.

10/29/75

November 1, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: Jeanne W. Davis *JWD*

SUBJECT: Report of Ad Hoc Advisory  
Group on Puerto Rico

In response to your October 22 query, it is our understanding  
\* that Jim Cannon has already acknowledged receipt of the report.

As you note, the formal Executive Branch response to the  
report is being coordinated by Jim Falk and the NSC Staff.

*\*not so - Jim Falk will  
send proposed Presidential  
acknowledgment tomorrow  
11/3/75*

*Jim would like to receive  
comments from cabinet as  
well as NSC to incorporate  
into one report to the President.  
Send NSC's comments to Jim Falk 11/3*

**November 12, 1975**

**Jim Falk -**

**Attached are the comments received  
from the Department of Labor on the  
Puerto Rico Report.**

**Trudy Fry**

**cc: Steve Low**

On 11/11/75 Jim Falk advised Eleanor Connors that copies of all comments should go to both Steve Low & Jim Falk --- Jim Falk has given Steve the earlier reports received.

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

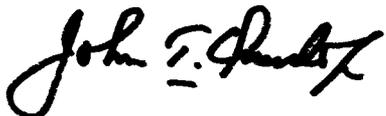
Dear Mr. Connor:

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,



Secretary of Labor

Enclosure

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,

John T. Dunlop

Secretary of Labor

Enclosure

LL-3 May

110-4

MAY 6 1975

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/ BY  
THE SECY OF LABOR

LLC:SPPetters:btr 4/28/75  
N2428, x38065

Rewritten:SPPetters:btr 5/2/75

November 17, 1975

Jim Falk -

Attached are OMB's comments  
on the Puerto Rico report. Missing  
are comments from Justice and  
DOT -- we are following on these.

Trudy Fry

cc: Steve Low



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

NOV 14 1975

MEMORANDUM TO MR. JAMES E. CONNOR  
Secretary to the Cabinet

FROM: Donald G. Ogilvie

SUBJECT: OMB recommendations re Ad Hoc Group  
Report on Puerto Rico

This is in response to your October 23 request for comments and recommendations concerning the report of the Ad Hoc Advisory Group on Puerto Rico entitled, "Compact of Permanent Union between Puerto Rico and the U.S." We previously had notified you we would need some additional time beyond your deadline of October 30 for comments and recommendations. The following comments and recommendations are an interim response to your request. They indicate a number of major policy questions which should be answered before the report of Ad Hoc Group is submitted to the President.

We would note, at the outset, that in contrast to the extensive interagency review and coordination on questions concerning possible changes in the political status of the Trust Territory and Guam, OMB was not requested to provide its views on this proposed compact at any previous time. In fact, we question whether there has been any coordinated Federal agency involvement in the preparation of the proposed new compact. If there had been such involvement by OMB, many of the questions outlined below could have been addressed and resolved at a much earlier point of time.

We believe this proposed compact should be given very deliberate consideration both because (1) it is proposed as a substitute for the present Federal Relations Act which defines the political, fiscal, national security and other fundamental relations between the U.S. and Puerto Rico and

(2) if recommended by the Executive Branch it would set numerous precedents which would have direct effects in ongoing negotiations with the Trust Territory of the Pacific Islands and the soon to be commenced discussions with the U.S. Territory of Guam. Further, transmission to the Congress of any recommendations for the revision of the present relations between the Federal Government and Puerto Rico inevitably will provoke comparisons with the Administration's proposed compact to establish a Commonwealth of the Northern Mariana Islands in the Western Pacific.

We have only had time to make a quick review of the report without the benefit of the views of other agencies. However, even this quick look indicates at least the following major policy questions:

1. Why should the Administration agree to the proposal to extend to the citizens of Puerto Rico the right to vote for the President and the Vice President of the U.S.?

Under the present Federal law, citizens of Puerto Rico generally are not required to pay Federal income or other taxes. The same situation exists in Guam, the Virgin Islands, American Samoa, and is proposed for the Commonwealth of the Northern Mariana Islands.

The Ad Hoc Group proposes that this exemption from Federal taxes be maintained but that the citizens of Puerto Rico be granted the right to vote for the President and Vice President. If this right were to be extended to them, it would raise the issue of extending that same right to U.S. citizens in the other named areas.

2. Why should the Administration agree to the proposed acceptance of a new, novel, term in American political relations ("Free Associated State") to re-define Puerto Rico's status?

If that term were accepted for Puerto Rico, could it also be applied to Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands?

3. Why should the Administration agree to the proposed authority for the Free Associated State to participate in International Organizations?

This is a proposal which has direct and immediate significance for proposals now under active consideration in the Executive Branch pertaining to requests by both Guam and the Trust Territory of the Pacific Islands to participate in International Organizations. The policy up until now for both these latter areas has been to oppose such participation.

4. Why should the Administration agree to the proposal that Puerto Rico "...would levy, increase, reduce, or eliminate tariffs and quotas on articles imported directly from foreign countries or transshipped through the United States " after prior consultation and coordination with Federal authorities?

Once again, similar proposals are certain to be advanced by the other named areas.

5. Why should the Administration agree to the proposal to provide new authority under which Puerto Rico could import materials and articles duty free for subsequent shipment or sale to other parts of the United States customs territory provided the F.A.S. (free at side) shipping price includes at least 33% value added in Puerto Rico?

Guam and the Virgin Islands (but not Puerto Rico) under current law can make such duty-free imports provided F.A.S. price includes at least 50% value added in those areas (except for watches and watch movements for which recent legislation reduced the valued added requirement to only 30%).

6. Why should the Administration agree to the proposal that Puerto Rico be represented in the U.S. Congress by one representative in the House of Representatives and one representative in the Senate?

At present, Puerto Rico, Guam and the Virgin Islands and the District of Columbia each has only one representative to the House.



7. Why should the Administration agree to the proposal that Puerto Rico would have the privilege to submit objections to the applicability to Puerto Rico of proposed bills or Federal rules, regulations, or orders before they are enacted or take final effect and if such objections are raised to require specific actions on them to determine whether the inclusion of Puerto Rico is essential and also whether it would be compatible with this proposed compact?

Once again, comparable proposals by the other areas are likely to be requested if this proposal is accepted.

8. Why should the Administration agree to the proposal that Puerto Rico would have exclusive jurisdiction over all matters pertaining to minimum wages and working hours, except for the shipping and aviation industries, which would continue to be covered by appropriate Federal laws?

Once again, we question whether this is a desirable precedent.

We believe the following steps need to be taken in reviewing the report and recommendations concerning Puerto Rico:

1. that the views provided to you by the Cabinet agencies be transmitted to OMB;
2. that OMB request the views on the report of other Federal agencies not represented in the Cabinet;
3. that OMB obtain estimates from all agencies of the potential impacts on the Federal budget of the proposed compact;
4. that OMB work with the Office of Micronesian Status Negotiations and the Department of the Interior to develop a comparative analysis of the provisions of (1) this proposed compact; (2) the proposed Commonwealth of the Northern Mariana Islands; (3) the recommendations previously approved by the President for proposed changes in Guam's future political status; and (4) the present negotiating instructions for Ambassador Williams with regard to the five districts of the Trust Territory not included in the Northern Mariana Islands Commonwealth proposal.



Based on these views, facts and analyses we could identify any other major policy questions as well as work to resolve the policy questions identified above which the Ad Hoc Advisory Group's recommendations raise. Realistically, it will take several weeks to complete this kind of effort. However, we believe such a review could be completed in time to determine whether or not to transmit the Ad Hoc Group recommendations to the Congress early in the next session.

We strongly recommend that the Report of the Ad Hoc Advisory Group on Puerto Rico be given very deliberate consideration before the President makes any decision about whether or not to transmit it to the Congress because the proposed compact which it contains would fundamentally re-write the existing Federal Relations Act for Puerto Rico.





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

NOV 14 1975

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Secretary to the Cabinet

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