



DEPARTMENT OF STATE

Washington, D.C. 20520

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April 24, 1973

MEMORANDUM

TO: Col. William R. Kenty  
JCS, Asia Branch, J-5  
Room 2E973, Pentagon  
FROM: L - Mr. Ronald F. Stowe  
L/EA - O. Thomas Johnson

SUBJECT: Draft Agreement with Marianas

Attached for your consideration is a draft Agreement and Act which would provide for the permanent association of the Marianas with the United States as a self-governing commonwealth. We would appreciate receiving any comments which you may have. We hope it will be possible to discuss the draft at Thursday's meeting.

*Note:*  
page 8  
Chpt III  
Chpt IV  
Sec 431 - not entirely, - feedback  
Sec 435 - no independent subcom  
Sec 441, F. - delete entirely, they cannot demand

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REVIEWED BY <u>J. FELDMAN</u>	DATE <u>1/8/86</u>
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MARIANAS FEDERAL

RELATIONS AGREEMENT

I. Whereas the Trust Territory of the Pacific Islands was placed under the administrative authority of the United States of America by means of the Trusteeship Agreement approved by the Security Council of the United Nations on April 2, 1947, and the United States Government on July 18, 1947; and

II. Whereas Article 6 of the Trusteeship Agreement provides that the administering authority shall:

"foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned"; and

III. Whereas the people of the Marianas/Territory have, clearly and for a significant period of time, expressed their desire to achieve self-government by entering into a close and permanent political relationship with the United States of America;

The Marianas Political Status Commission and the Personal Representative of the President of the United States have agreed that the following proposed bill to establish a Commonwealth territorial status for the Marianas shall, upon approval by the Marianas District Legislature, be presented to the people of the Marianas for their consideration in a

plebiscite to be held within six months and, upon the approval of a majority of those voting in the plebiscite, shall be presented to the United States Congress for its consideration.

A BILL

To provide for the creation of a constitutional government by the people of the Mariana Islands, and for other purposes.

Whereas the people of the Marianas District of the Trust Territory of the Pacific Islands have, in a plebiscite held on \_\_\_\_\_, chosen to have their political status governed by the terms of this Act,

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Marianas Federal Relations Act".

TITLE I

SEC 101 (a) The Marianas District of the Trust Territory of the Pacific Islands, consisting of the islands administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations (hereinafter "Trusteeship Agreement"), will upon termination of that trusteeship be a self-governing commonwealth under the sovereignty of the United States, to be known as "The Mariana Islands".

(b) The government to be established for the Mariana/ Islands by the constitution provided for in this Act shall have the powers set forth in this Act, shall have power to sue,

and with the consent of the Government of the Mariana Islands may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the Government of the Mariana Islands of any of its lawful powers.

(c) The relations of the Government of the Mariana Islands with the Government of the United States shall be subject to the provisions of Article 4, section 3, clause 2 of the Constitution of the United States and shall be conducted through such agency of the United States as the President may designate.

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TITLE II -- CONSTITUTIONAL CONVENTION

SEC. 201. The people of the Mariana Islands shall form a government for these islands pursuant to a constitution of their own adoption as provided by this Act.

SEC 202.

The District legislature of the Marianas shall call a constitutional convention to write a constitution for the Mariana Islands, the provisions of which shall be in accordance with this Act.

SEC 203. The constitutional convention shall prepare a proposed constitution for the Mariana Islands which shall be submitted not later than one year after the convening of the constitutional convention to the High Commissioner for transmission to the President of the United States. If the President of the United States finds that the proposed constitution includes asatisfactory bill of rights, and is not contrary to the provisions of this Act and the Constitution of the United States of America, he shall so certify to the High Commissioner of the Trust Territory, who shall so advise the Marianas District Legislature which shall dissolve the constitutional convention. If the President finds that the proposed constitution does not satisfactorily provide for a bill of rights, or is contrary to the provisions of this Act or the Constitution of the United States, he shall so advise the High Commissioner of the Trust Territory of the Pacific

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Islands, stating wherein in his judgment the constitution does not so provide or is contrary to the provisions of this Act. The High Commissioner shall in turn submit such message to the constitutional convention for further action. The revised document shall be returned to the President of the United States and the same procedure repeated until the constitution is certified by the President.

SEC 204 (a) Upon certification by the President of the United States to the High Commissioner of the Trust Territory of the Pacific Islands in accordance with section 203 of this Title, the High Commissioner shall, within thirty days after receipt of such certification, issue a proclamation for a referendum to be held not more than ninety days after the date of the proclamation to vote "yes" or "no" on the following proposition:

The peoples of the Mariana Islands hereby adopt the Constitution of the Mariana Islands as certified by the President of the United States.

(b) The High Commissioner of the Trust Territory of the Pacific Islands and the Marianas District Legislature shall, within thirty days, following the referendum, determine the results of that referendum and convey their determination to the President of the United States. If a majority of the qualified votes cast at the referendum are in favor of adopting the proposition, the President shall issue a proclamation so stating, and the Constitution of the Mariana Islands shall become effective upon the termination of the Trusteeship Agreement

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SEC 205. Amendments to the Constitution of the  
Mariana Islands

may be made from time to time as provided  
in that Constitution, subject to the certification of  
the President of the United States that such amendments  
are consistent with the provisions of this Act.

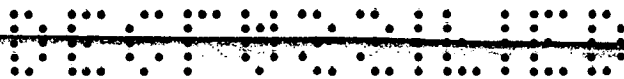
TITLE III  
THE CONSTITUTION OF THE MARIANA ISLANDS

SEC 301. The Constitution of the Mariana Islands  
shall contain provisions to the effect that --

(a) Any laws enacted by the Government of the  
Marianas must not be inconsistent with the Constitution of the  
United States or with those statutes enacted under the authority of  
the United States which are specifically applicable to the  
Mariana Islands or the territories of the United States.

(b) No law shall be passed by the Government of the  
Marianas imposing any tax upon property of the Government of  
the United States or property of the Government of the  
Marianas. No import or export levies shall be imposed on  
goods imported into the Marianas from the United States or any  
of its territories or transported within the Marianas, or any  
political subdivision thereof. No taxes or export levies shall  
be imposed upon the exportation of goods of Marianas origin  
from the Marianas to the United States, its territories or  
possessions.

(c) The legislative power of the Government of the  
Marianas must be vested in a legislature, every member of which  
shall be popularly enacted. All such members and all officers  
of the Government of the Marianas shall take an oath or



have become citizens of the Trust Territory of the Pacific Islands between July 18, 1947 and the date of termination of the Trusteeship Agreement and who are residents of the Marianas District on that date, and who have taken no affirmative steps to preserve or acquire any foreign citizenship or nationality, shall be citizens of the United States.

SEC. 402 (a) All persons born in the Mariana Islands after the termination of the Trusteeship Agreement, and subject to the jurisdiction of the U.S., are citizens of the U.S. at birth.

(b) For the purposes of sections 301, 308 and 325 of the Immigration and Nationality Act (66 Stat. 235, 283, 8 U.S.C. 1401, 1408, 1436) a person born in the Marianas after the effective date of this Act shall be considered as born in an outlying possession of the United States.

(c) Any person described in Section 401 who does not wish to be a citizen of the United States pursuant to this Act, shall make a declaration under oath of such desire within one year after the termination of the Trusteeship Agreement, or within six months after attaining the age of 21 years, whichever comes later, said declaration to be in the form and executed in the manner to be prescribed. Having made such a declaration, any such person shall be held not to be a citizen of the United States.

#### Chapter 2 - Power of Federal Courts

SEC. 421 (a) Effective upon termination of the Trusteeship Agreement, the District Court of Guam is hereby re-designated the District Court of the Western Pacific. Its district is hereby expanded to encompass the island of Guam

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affirmation to support the Constitutions of the Marianas and the United States.

(d) The decisions of the highest court of the Marianas shall be subject to review by the United States Court of Appeals for the Ninth Circuit as provided for in Title IV, Chapter 2 of this Act.

(e) The jurisdiction and powers of the District Court for the Western Pacific and of its judges and officers provided for in Title IV, Chapter 2, shall be recognized.

(f) No public indebtedness shall be authorized or allowed in excess of 10 per centum of the aggregate tax valuation of the real property in the Marianas. Bonds or other obligations of the Government of the Marianas payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Micronesia within the meaning of this section.

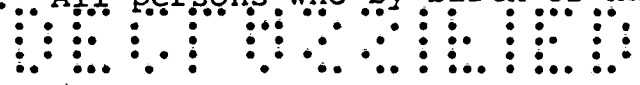
(g) The rights of the United States to acquire property as set forth in Title IV, Chapter 4 of this Act shall be recognized.

(h) The rights, privileges, and immunities of citizens of the United States shall be respected in the Marianas as though the Mariana Islands were a State of the Union and subject to the provisions of clause 1, section 2 of article IV of the Constitution of the United States

TITLE IV  
THE POLITICAL STATUS OF THE MARIANA ISLANDS

Chapter 1 - Citizenship

SEC 401. All persons who by birth or naturalization



and the islands presently within the Marianas District of the Trust Territory of the Pacific Islands. [MORE TO COME]

SEC. 422. All final judgments or decrees of the highest court or courts of the Marianas in cases and controversies arising under the Constitution, treaties, and laws of the United States may be reviewed by the United States Court of Appeals for the Ninth Circuit by writ of certiorari in accordance with such rules as that Court may prescribe.

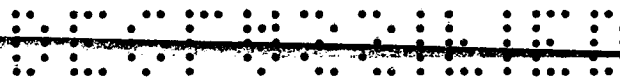
SEC. 423. The laws of the United States relating to removal of causes, appeals and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings between the courts of the United States and the courts of the Mariana Islands.

### Chapter 3 - Fiscal Provisions

SEC. 431. The levy of duties on goods imported into the Mariana Islands hereby reserved to the Government of the Marianas.

SEC. 432. All bonds issued by the Government of the Marianas or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States or by the Government of any State, Territory, or possession, or any political subdivision thereof, or by the District of Columbia.

SEC. 433. Effective on the first day of July following the termination of the Trusteeship Agreement, all customs duties and Federal income taxes of the United States derived from the Marianas, the proceeds of all taxes collected



under the internal revenue laws of the United States on articles produced in the Marianas and transported to the United States, its territories, or possessions, or consumed in the Marianas, and the proceeds of any other taxes which may be levied by the Government of the Marianas on the inhabitants of the Marianas and all quarantine, passport, immigration, and naturalization fees collected in the Marianas shall be deposited in the treasury of the Marianas and shall be expended for the benefit of the People of the Marianas as the Government of the Marianas may by law prescribe.

SEC. 434. Effective on the first day of January following the termination of the Trusteeship Agreement, the income tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Marianas.

SEC. 435. (a) As soon as possible following the termination of each fiscal year, the Government of the Marianas shall certify to the Secretary of the Treasury the net amount of revenue, exclusive of United States Federal matching and grant funds, received by the Government of the Marianas during the preceding fiscal year. There is authorized to be appropriated for transfer to the Government of the Marianas a sum equal to the net amount of revenue received by the Government of the Marianas, as certified by the Government of the Marianas.

(b) Until such time as funds available to the Government of the Marianas pursuant to this section and sections 463 and 464 are sufficient to meet the obligations of

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the Government of the Marianas, but in no event for more than five years beyond the date of termination of the Trusteeship Agreement, there is authorized to be appropriated by the Congress of the United States/as may be needed to pay such obligations.

SEC. 436. For the purposes of the Tariff Schedules of the United States, the Mariana Islands shall be entitled to the same privileges as the insular possessions of the United States which are outside the custom territories of the United States.

SEC. 437. The Government of the Marianas shall submit to the President of the United States or his appointed representative an annual report on the administration of the funds transferred to the Government of the Marianas pursuant to the provisions of this chapter. Such reports shall be transmitted by the President to the Congress of the United States.

#### Chapter 4 - Government Property

SEC. 441. (a) Upon termination of the Trusteeship Agreement the title to all real and personal property in the Marianas District owned by the Government of the Trust Territory of the Pacific Islands, and all interests in such property including rights of use and including all right, title, or interest of the Government of the Trust Territory of the Pacific Islands in tidelands, submerged lands, or filled lands in or adjacent to the Mariana Islands held by the Government of the Trust Territory of the Pacific Islands, shall be transferred to the Government of the Marianas.

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The term "tidelands, submerged lands, or filled lands" shall have the meaning ascribed to it in Section 1(a) of Public Law 88-183 (77 Stat. 338). This subsection shall not apply to any interest in lands, which interest by local or customary laws or rights is held in private or communal ownership.

(b) During the three-year period referred to in subsection (c), nothing herein shall impair the existing agreements between the Trust Territory Government and the United States Government or any agency or instrumentality thereof insofar as they relate to land use and retention, and the Government of the Marianas takes all such land as set forth in subsection (a) above subject to such agreements; provided, however, that such retention and use will at all times be consistent with the public purposes of the United States.

(c) (1) Within three years from the effective date of this Title, the retention and use rights of the United States Government covered by subsection (b) shall terminate, unless, within that time the United States proceeds to acquire, in accordance with subsection (d) or (f) hereof whatever rights in such lands may be considered necessary for the public purposes of the United States.

(2) In any such acquisition, the amount to be paid for the property, or interest therein, shall be the current fair market value of the interest acquired, exclusive of any improvements made by the United States or <sup>its</sup> assigns, and less any amount or amounts previously paid, gratuitously

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or otherwise, therefor.

(d) The United States Government its departments and agencies, are hereby authorized to, and may acquire for public purposes, <sup>in</sup> the Mariana Islands property or any interest in property, including any temporary use, in accordance with this subsection and subsection (f). Such property, including that owned or controlled by private parties or the Government of the Marianas, may be acquired under this subsection by purchase, lease, exchange, gift, or otherwise under such terms and conditions as may be negotiated by the parties, subject to the limitations in subsection (g).

(e) In no event may the estate in property sought to be acquired by the United States be greater than a fee on a conditional limitation. The limiting event which will terminate such a fee shall be the absence for a period of five years of the use of the land for public purposes of the United States Government. Upon termination, fee ownership in the land shall revert automatically to the person, persons or entity from whom it was acquired, or their heirs, or successors.

(f) In the event the United States is unable to acquire property or an interest in property by negotiation in accordance with subsection (d), then it may acquire property or an interest therein in accordance with the following procedure:

(1) The United States may present to the Government of the Marianas a statement describing the property in which it wishes to acquire an interest including therein the nature of the interest sought to be acquired, the public purpose for such interest, and a detailed appraisal report of the fair market value of the property.

value of the interest prepared by qualified independent appraisers.

(2) In the event the Government of the Marianas agrees with the need for the acquisition by the United States of the property or any interest in property sought to be acquired, and further agrees with the appraisal for the value of the property or interest, it shall, in accordance with its constitutional processes, require the conveyance of the property or interest therein to the United States.

(3) In the event that the Government of the Marianas agrees with the need for the acquisition by the United States of the property or interest sought to be acquired, but disagrees with the appraised value thereof, the United States shall be entitled to immediate possession of said property or right to exercise its interest; but both parties shall proceed forthwith to attempt to agree upon the question of value. If agreement is reached, the property or interest therein shall be conveyed to the U.S. as in (2) above. If no agreement can be reached, the question of value shall be promptly submitted to the highest court of the Marianas which will proceed to determine whether the price proposed by the appraisal represents the fair market value. The decision of the court shall be final, subject, however, to further proceedings and review as provided in subsections (f) (4) and (5).

(4) In the event an interest in private or communally-owned property is acquired pursuant to subsections (f) (1), (2) and (3) and the owner or owners disagree with the fair market value and wish a further review, the United States shall proceed immediately in accordance with established Federal law and procedures to have the fair market

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value determined with the right of appeal under said Federal law and procedures to the United States Court of Appeals for the Ninth Circuit.

(5) In the event that the Government of the Marianas does not agree with the need for the acquisition by the United States of property or interest in property sought to be acquired, or in the event that the United States wishes to appeal from a final decision of the highest court of Micronesia rendered in accordance with subsection (f) (3), then the United States shall have the right to proceed in accordance with established Federal law and procedures with respect to the acquisition of property or interest in property with the right of appeal under said Federal law and procedures to the United States Court of Appeals for the Ninth Circuit.

(6) Final decisions of the United States Court of Appeals for the Ninth Circuit rendered in accordance with subsections (4) and (5) may be reviewed by the United States Supreme Court on petition for a writ of certiorari in accordance with 28 U.S.C. 2101.

(g) Upon termination of the Trusteeship Agreement the alienation of interests in land in the Marianas, except as provided for in subsections (d) and (f) of this section, shall be regulated by the Government of the Marianas consistently with the United States Constitution.

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TITLE V - TRANSITIONAL PROVISIONS

SEC. 501. Pending the coming into force of the Constitution of the Mariana Islands as provided for herein, the President may implement, by Executive Order, such provisions of this Act as he deems appropriate.

SEC. 502. The President of the United States shall appoint a commission of seven persons, at least three of whom shall be residents of the Mariana Islands, to survey the field of Federal statutes and to make recommendations to the Congress of the United States within twelve months after the effective date of this Act as to which statutes of the United States not applicable to the Mariana Islands on such date shall be made applicable to the Mariana Islands upon the termination of the Trusteeship Agreement and which statutes shall be made inapplicable.

SEC. 503. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

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