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Subject

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May 2, 1973

TO: SEE ATTACHED LIST

FROM: L/EA - Oliver T. Johnson, Jr.

Attached is the second draft of the proposed agreement with the Marianas Political Status Commission.

Comments?

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY B.H. BAAS DATE 3/25/87

RDS  or XDS  EXT. DATE \_\_\_\_\_

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Clearance:  
L - Mr. Stowe

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REVIEWED BY B.H. BAAS DATE 8/6/87

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MARIANAS FEDERAL  
RELATIONS AGREEMENT

PREAMBLE

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

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

Whereas the people of the Marianas District of the Trust Territory have clearly, and for over 20 years, expressed their desire by petition and local referendum to achieve self-government by entering into a close and permanent political relationship with the United States of America; and

Whereas the Marianas Political Status Commission was created pursuant to such petitions for the purpose of entering into negotiations with the United States regarding said permanent political relationship;

The Marianas Political Status Commission and the Personal

Representative of the President of the United States  
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have agreed that the future political status of the Marianas should be that of a Commonwealth incorporated into the United States <sup>and</sup> established in accordance with the following General Principles and the attached Articles of Incorporation.

#### GENERAL PRINCIPLES

1. The Marianas District of the Trust Territory of the Pacific Islands, should become a self-governing commonwealth under the sovereignty of the United States, to be known as "The Commonwealth of the Mariana Islands".
2. The people of the Mariana Islands should form a government for these islands pursuant to a constitution of their own adoption as provided in the attached Articles of Incorporation.
3. The Government of the Marianas should be empowered to regulate the alienation of public and private lands so as to protect them from outside acquisition.
4. The Government of the United States should enjoy the right of eminent domain in the Marianas.
5. The proceeds of all taxes levied within the Marianas should be returned to the Marianas and significant additional Federal economic assistance provided.
6. The people of the Marianas should be citizens of the United States.

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The Marianas Political Status Commission and the President's Personal Representative have further agreed that upon approval of this Agreement by the Marianas District Legislature, it shall 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, the United States Congress shall be requested to enact enabling legislation consistent with this agreement in order that this agreement may be implemented and the Commonwealth of the Mariana Islands established.

OS 424527

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Articles of Incorporation for the Commonwealth  
of the Mariana Islands

Article I

SEC 1. 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 Commonwealth of the Mariana Islands".

SEC 2. The government to be established for the Mariana Islands by the constitution provided for in this Agreement shall have the powers set forth in this Act, shall have power to sue, and with the consent of the legislature 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.

SEC 3. 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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ARTICLE II -- CONSTITUTIONAL CONVENTION

SEC. 1. The people of the Mariana Islands shall form a government for these islands pursuant to a constitution of their own adoption as provided in these Articles.

SEC 2.

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. Each of the present electoral districts within the Mariana Islands shall be represented in the Constitutional Convention.

SEC 3. 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 a satisfactory bill of rights, and is not contrary to the provisions of this Act and the basic provisions of 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 basic provisions of the Constitution of the United States, he shall so advise the High Commissioner of the Trust Territory of the Pacific

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OS 424529

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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 4. (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 3 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

OS 424530

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SEC 5. 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 not inconsistent with the provisions of enabling legislation enacted by the U.S. Congress pursuant to this Agreement.

ARTICLE III - THE CONSTITUTION OF THE MARIANA ISLANDS

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, including such statutes as may be enacted in the future.

(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 any of the islands presently included within the Trust Territory of the Pacific Islands, 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

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Marianas must be vested in a legislature, every member of which shall be popularly elected. All such members and all officers of the Government of the Marianas shall take an oath or affirmation to support the Constitutions of the Marianas and the United States.

(d) The <sup>final</sup> decisions of the courts of the Marianas not subject to further review in such courts shall be subject to review by the United States Court of Appeals for the Ninth Circuit as provided for in Article IV, Chapter 2 of these Articles.

(e) The jurisdiction and powers of the District Court for the Western Pacific and of its judges and officers provided for in Article 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 the Marianas within the meaning of this section.

(g) The rights of the United States to acquire property as set forth in Article IV, Chapter 4 of these Articles 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, except as provided in Article IV, Section 5 of these Articles.

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ARTICLE IV - THE POLITICAL STATUS OF THE MARIANA ISLANDS

Chapter 1 - Citizenship

SEC 11. All persons who by birth or naturalization 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 12 (a) All persons born in the Mariana Islands after the termination of the Trusteeship Agreement, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

(b) Any person described in Section 11 of this Article who does not wish to be a citizen of the United States 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 21 (a) Effective upon termination of the Trusteeship Agreement, the District Court of Guam is to be re-designated the District Court of the Western Pacific. Its district is to be expanded to encompass the island of Guam

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and the islands, presently within the Marianas District of the Trust Territory of the Pacific Islands.

SEC. 22. 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, not subject to further review in such courts, 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. 23. 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. 31. The levy of duties on goods imported into the Mariana Islands hereby reserved to the Government of the Marianas is

SEC. 32. 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. 33. 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

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**Section 34**

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. 34. 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. 35. (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 shall be transferred 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 33 and 34 are sufficient to meet the obligations of

**Section 35**

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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, a sum up to \$7 million per year shall be made available as may be needed to pay such obligations.

SEC. 36. For the purposes of the Tariff Schedules of the United States, the Mariana Islands shall constitute one of the insular possessions of the United States which are outside the custom territories of the United States.

SEC. 37. 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. 41. (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 termination of the Trusteeship Agreement, 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 (e) 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.~~ **DECLASSIFIED**

(d) The United States Government, its departments and agencies, are hereby authorized to, and may acquire for public purposes in the Mariana Islands property or any interest in property, including any temporary use, in accordance with this subsection and subsection (e). 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 Section 51 of this Article.

(e) 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 its Constitutional authority and presently established Federal law and procedures with respect to the acquisition of real property or an interest in real property.

(f) In the event an interest in private or communally-owned property is acquired pursuant to subsection (e) 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 value determined with the right of appeal under said Federal law and procedures to the United States Court of Appeals for the Ninth Circuit.

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SEC 51. Upon termination of the Trusteeship Agreement

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

SEC 52. Whenever it becomes necessary in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, the chief executive of the Government of the Mariana Islands may request the assistance of the military or naval commanders of the Armed Forces of the United States, which assistance may be given at the discretion of such commanders if not disruptive of, or inconsistent with, their Federal responsibilities.

ARTICLE V - TRANSITIONAL PROVISIONS

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SEC 1. 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 implementation of these Articles by Congress 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

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shall be made inapplicable.

SEC 2. 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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