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MARIANAS POLITICAL STATUS COMMISSION

May 10, 1973

Position Paper
Regarding the Future Political Status
of the
Mariana Islands

Since the first session of status negotiations in December of 1972, the Marianas Political Status Commission has explored the various political status alternatives which will enable the people of the Mariana Islands to fulfill their long-standing aspirations to establish a close political relationship with the United States. In this paper the Commission proposes a new political status for the Mariana Islands which will accomplish this purpose.

In summary, the Commission proposes that a Commonwealth of the Mariana Islands be created by Compact between the people of the Mariana Islands and the United States and that the people of the Marianas be permitted to become citizens or nationals of the United States. We believe that the proposal detailed in this paper offers a firm legal and practical foundation for fully accommodating the mutual interests of the Mariana Islands and the United States in accomplishing a rapid termination of the Trusteeship Agreement and the establishment of a secure future political status for the Marianas. The Commission respectfully requests that this proposal be carefully considered during the second round of status negotiations.

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I. Proposed Political Status

In analysing the available political status alternatives, the Commission has attempted to identify the basic components of a political status which will best serve the interests of the people of the Mariana Islands. We believe that the Commission's Compact of Commonwealth proposal can be summarized most usefully by examining the following ingredients of the proposed political status: A) Source of political status; B) Amendment or termination of the political status; C) Degree of internal autonomy or self-government; D) Applicability of United States Constitution; E) Applicability of United States laws; F) National Security and Foreign Affairs; and G) Representation in Washington. The Commission is prepared to elaborate on the legal, policy or other reasons for its views in any of these areas during the forthcoming negotiations.

A. Source of Political Status

The proposed Commonwealth of the Mariana Islands would involve a formal undertaking between the people of the Marianas and the United States in the form of a Compact. This Compact would be based upon and consist of three fundamental legal documents: 1) a Compact negotiated between the Marianas and the United States providing for the new political status; 2) a Marianas Federal Relations Act; and 3) a Constitution of the Commonwealth of the Mariana Islands. Each of these three documents would have to be approved by the people of the Marianas and by the United States Congress.

The Commission's recommendation for a Commonwealth by Compact is based largely upon examination of the Puerto Rico precedent. It is generally recognized--by the United Nations, the U. S. Congress, the U. S. Executive Branch, and the courts--that the commonwealth status possessed by Puerto Rico is superior to the status of an unincorporated territory. In advancing this proposal, the Commission has also endeavored to build upon the Commonwealth proposal advanced by the United States in May of 1970. The Marianas Political Status Commission strongly believes the proposed Compact of Commonwealth will provide the fullest opportunity for self-government in the Marianas and create a political status which the people of the Marianas can accept with dignity through a solemn act of self-determination.

B. Amendment or Termination of Political Status

1. The Commission proposes that the Commonwealth status recommended for the Marianas should be amended or terminated only by mutual consent. This recommendation is based upon the Commission's conception of a Compact of Commonwealth as a mutual undertaking between the people of the Marianas and the United States. A requirement of mutual consent will protect both parties to the Compact from unilateral action by the other party which amends, or even terminates, the political relationship. The Commission regards this element of mutual consent as one of the central advantages of the proposed Commonwealth status as compared with other alternatives considered by the Commission.

2. The Commission proposes that specific provision be made in the Compact for periodic review of the future political status of the Marianas. We believe that all aspects of the relationship between the Marianas and the United States--economic as well as political--should be subject to review at five-year intervals if either party to the Compact so requests. If a review is requested by either party, the Commission recommends that the parties undertake to discuss the matter at a high level of government and to negotiate in good faith on the questions raised during the course of the review. If the principle of periodic review is accepted, the Commission is confident that appropriate specific provisions and procedures can be determined during a later stage of these negotiations.

C. Degree of Internal Autonomy or Self-Government

1. As indicated above, the Marianas Political Status Commission believes that the people of the Marianas should have their own Constitution, which would be one of the fundamental legal documents underlying the proposed Compact between the Marianas and the United States. The Constitution of the Commonwealth of the Mariana Islands would be drafted at a Constitutional Convention, would be subject to approval by the people of the Marianas, and would become effective upon approval by the United States Congress. The Commission fully expects that the Constitution will have a detailed Bill of Rights specifying the protections available to the people of the Marianas and modeled to a considerable degree upon the comparable provisions of the U. S. Constitution. The people of the Marianas would be free

to amend their Constitution so long as the amendments are consistent with the Marianas Federal Relations Act and the U. S. Constitution.

2. Although the precise form of governmental institutions in the Commonwealth of the Mariana Islands would be determined through the process of developing a Constitution, the Commission accepts the principle that the future Marianas Government should be a republican form of government with three separate branches--executive, legislative and judicial. Within these constraints, however, the Commission believes that the people of the Marianas should have full self-government and absolute control over their internal affairs. It is essential, for example, that the people be entitled to elect their own Chief Executive and have the other attributes of a self-governing people. The Commission's recommendation of a Compact of Commonwealth is based in large measure upon the conviction that this political status affords the most freedom for the people of the Marianas to determine their own destiny within the American family.

D. Applicability of United States Constitution

1. The Commission recognizes that certain fundamental guarantees of the United States Constitution will be applicable to the Marianas in its future political status. We anticipate that the rights of the people of the Marianas will be fully protected by the provisions of the Constitution of the Commonwealth of the Mariana Islands. Nevertheless, the Commission is prepared to review specific provisions of the U. S. Constitution and determine which of these provisions should be expressly made applicable to the new Commonwealth.

The Commission generally desires that the people of the Marianas be guaranteed all the same protections against actions of the Federal Government as are possessed by citizens and other persons residing in the United States. There are some provisions, however, which may not be appropriate to the Marianas, such as certain requirements of the Fifth Amendment or the Seventh Amendment, and the Commission desires to reserve its position on these and similar questions until it has had an opportunity for further study and consultation with the U. S. Delegation.

2. The Commission has concluded that at least one provision of the United States Constitution--the privileges and immunities clause of Article IV, Section 2, Clause 1--should not be applicable to the Commonwealth of the Mariana Islands. The Commission is concerned that the application of this clause might restrict the ability of the Marianas people to adopt future restraints on land transactions designed to preserve the land for the benefit of persons of Marianas ancestry. The Commission is not now prepared to assert that such restraints will be necessary or, if so, the specific form that such restrictions might take. These are matters which the Commission intends to study further in the near future. It seems clear, however, that the privileges and immunities clause might be an important legal obstacle to the adoption of any such restrictions; and it is for that reason that the Commission proposes that the Compact expressly provide that this clause should not be applicable to the Commonwealth of the Mariana Islands.

E. Applicability of United States Laws

1. The Commission recognizes that under its proposed future political status the people of the Marianas should have the benefit of, and access to, the Federal judicial system. Although accepting this in principle, the Commission is not prepared at this time to take a firm position on the many procedural and administrative questions which must necessarily be resolved to accomplish this end result most economically and efficiently. The Commission desires, for example, to study further the jurisdiction which should be granted the Federal judiciary in the Commonwealth of the Marianas, the relationship with the U. S. District Court in Guam, and the relationship to any local court system to be established by the Commonwealth of the Marianas. The Commission solicits the views of the United States regarding these and comparable issues relating to the Federal judiciary system and will be prepared to discuss these matters in detail during a later stage of these negotiations.

2. In order to prevent future uncertainty, the Commission is prepared during these negotiations to discuss the applicability or nonapplicability to the Marianas of the most important United States laws. With respect to some of these statutes, such as the U. S. postal and currency laws, the Commission is ready at this time to accept in principle their applicability to the Commonwealth of the Marianas. We are confident that there are many other statutes whose benefits are such that they too should be made expressly applicable to the Marianas, but we require additional time to ascertain whether

there are incidental questions regarding details of interpretation or application which should be raised because of the unique geographical, historical, and cultural factors which pertain in the Marianas.

The Commission solicits the views of the United States as to which statutes should be evaluated at an early point in these negotiations regarding their applicability or nonapplicability to the Marianas.

3. In addition, the Commission proposes that a joint Commission be established at an appropriate time to review all other Federal laws with a view toward determining which United States laws should apply in the Marianas. Such a Commission, comparable to that used in connection with Guam, would have the duty also of developing general guidelines to be used in deciding what future United States laws should apply in the Commonwealth of the Marianas. These guidelines must necessarily reflect the unique circumstances of the Marianas and the aspirations of the people of the Marianas to achieve full self-government over their internal affairs.

F. National Security and Foreign Affairs

1. The Commission accepts the principle that under its proposed political status for the Marianas the United States will possess full responsibility and authority for matters related to national security and defense. Although recognizing that implementation of these responsibilities will require the establishment of military bases by the United States in the Marianas, the Commission strongly believes that the use of land for these purposes should be kept at the absolute minimum possible. The use of land for military purposes

and the related effects upon the people of the Marianas will be one of the central issues to be discussed during these negotiations. In drafting provisions of a Compact relating to national security and defense, the Commission urges the United States to recognize the deeply felt desire of the Marianas people to be fully consulted about actions and plans of the United States in exercising its responsibilities in this area. The people of the Marianas are understandably concerned about the use of their most valuable resource for military purposes and deserve to have their views treated with the same dignity and respect as are accorded to residents of the United States.

2. With respect to foreign affairs, the Commission also recognizes the primary responsibility of the United States. The Commission proposes, however, that the Compact between the United States and the Marianas should provide for the fullest possible consultation by the United States with the Marianas regarding foreign matters affecting the Marianas. [Where treaties are contemplated which relate significantly to the Marianas, the Commission proposes that the consent of the Marianas be secured before such treaties are negotiated by the United States. In addition, the Marianas desire the fullest opportunity to participate in international or regional organizations concerned with trade, cultural, social, educational, technical, scientific, or comparable areas of interest. The Commission recommends that the Compact expressly recognize this desire and right on the part of the Marianas and commit the United States to assist

efforts by the Marianas to participate meaningfully and responsibly in international affairs.]

G. Representation in Washington

The Commission proposes that the Commonwealth of the Marianas be entitled to a nonvoting delegate to the U. S. House of Representatives. This delegate would receive the same compensation, allowances, and benefits as a full member of the House of Representatives and would be authorized to introduce legislation on behalf of the people of the Marianas, to speak on the floor of the Congress and in Committees, and to vote in Committees to which he is assigned. Although recognizing the legal difficulties involved, the Commission's long term aspirations in this area are to have a voting representative in Congress who will have all the rights and privileges of other members of the U. S. House of Representatives.

II. Citizenship

In preparing for this second round of status negotiations, the Commission has devoted considerable time and effort to the question of United States citizenship for the people of the Mariana Islands. The Commission recognizes, and welcomes the fact, that the proposed close political status with the United States will mean that the people of the Marianas will be entitled to become U. S. nationals or U. S. citizens. Beyond this point, however, the Commission's current position on this complicated and sensitive issue can be summarized as follows:

A. The Commission believes that the question of U. S. citizenship, or U. S. national status, for the people in the Marianas under the proposed commonwealth must ultimately be resolved on an individual basis by each citizen of the Marianas. Neither this Commission nor any other governmental entity in the Marianas has the legal authority to make this election on behalf of the citizens of the Marianas.

B. The Commission believes that any future political status for the Marianas should provide the legal mechanism by which the people of the Marianas can elect to become citizens of the United States or U. S. nationals depending upon their personal preferences.

C. The Commission intends to continue its study of this question, particularly with respect to any different privileges or responsibilities which attach to U. S. citizenship as contrasted with

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U. S. national status. The Commission solicits the views of the U. S. Delegation on this issue, especially regarding any legal or political implications of this choice which might affect the kind of future political status which the people of the Marianas can secure. The Commission anticipates that its future deliberations on this subject will assist the people of the Marianas in making an informed decision on this important matter.

D. The Commission believes that the question of U. S. citizenship, or U. S. national status, should be placed before the people of the Marianas by referendum at the time any future political status is presented to them for approval. Citizenship is obviously one of the critical aspects of any future political status for the Marianas, and this Commission recognizes the necessity and desirability of placing this question directly before the people.

E. Based upon the results of this referendum, the Commission believes that the specific provisions of the Compact and the Marianas Federal Relations Act dealing with citizenship and national status can be drafted to reflect the wishes of the majority of the people while still preserving the rights of the minority to select the status of their choice. For example, if the majority of the voters desire to become United States citizens, the statutory provisions can provide that all citizens in the Marianas will become U. S. citizens unless, within a stated period of time, they come forward and elect to become U. S. nationals. Conversely, if the majority of the voters desire to

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become nationals, the statutory provisions can place the burden of coming forward on those who desire to become citizens. In either case, the Commission believes that the procedural requirements should be as simple as possible--involving a minimum of travel, time, and paperwork--so that each citizen of the Marianas is indeed given full opportunity to make his own election.

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