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STATEMENT ON POLITICAL STATUS FOR MAY 16 WORKING SESSION

I start my commentary, Mr. Chairman, from the basic assumption that your delegation has invited us here for the purpose of establishing an enduring political union between the Mariana Islands and the United States. This desire has been insisted upon over the years by your representatives. With U. S. acquiescence in this request, establishment of this relationship has now become the common purpose of these talks.

We proceed now to detailed discussion of the specific elements of that relationship. Like you, we are ready to start building an agreement. But before applying the planks and bricks and mortar we need to be sure we have a solid foundation. We must make certain we have agreement on the basic principles underlying and defining the political status we want between the Marianas and the United States.

I recognize, of course, that there are interlocking relationships between political status and the other major questions to be considered in these talks. Before proceeding to explore other aspects of this relationship in depth such as land and finance we must first reach agreement on the basic elements of political status. We are prepared to answer fully any of your concerns on finance and land which might relate to the basic political structure, and we will, of course, review these topics with you later in detail when we come to their specific consideration.

I should also note that the agreement we reach here on status should be considered as tentative in nature. That is, no one should be precluded from returning to the status issue as further questions about it arise during our subsequent discussion of other agenda items.

Let us turn now to political status and its legal and jurisdictional manifestations. It is encouraging to find that we seem to have substantial areas of agreement resulting from the exchanges between the two delegations in the informal sessions last week. As I noted in yesterday's plenary session, the U.S. is in agreement with the Marianas' desire for a commonwealth relationship. It is perhaps useful, however, to review what the U.S. feels to be the essential components of such an arrangement.

We visualize the forging of close ties that will bring the Marianas fully into the American political family. We envision a relationship which will clearly vest sovereignty over the Mariana Islands in the Government of the United States and authorize that Government to legislate for the Marianas under Article IV, section 3, clause 2 of the Constitution. This relationship would be "territorial" as that term is used in the U.S. Constitution. However, the Marianas would become a commonwealth with the right to write its own constitution and would have the maximum possible control over its affairs subject, of course, to the supremacy of the Federal Government.

There are many questions flowing from these principles. They are of some complexity and will require careful, detailed consideration during our forthcoming discussions. It seems essential to me, however, that we must agree on these basic principles themselves at the outset. Unless we can do so, there is little point in pursuing the other subjects on our agenda in much depth.

I would like to comment now on some of the specific suggestions in the position paper on political status which your Status Commission was good enough to hand us last week. We have studied it with great care. My comments will be confined, however, to the important issues, leaving extended discussion to later.

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In describing earlier the basic principles which the U.S. believes should underlie the status relationship, I hope I made it clear that we are talking about a close and enduring association achieved by an agreement. This may not be the same thing you are talking about in your "compact". We too have tried to follow the May 1970 Commonwealth proposal in many substantive matters, but not the specific example of Puerto Rico.

We have come together to discuss close permanent ties. It seems to us inappropriate, therefore, to give any substantial consideration in our discussions to the question of possible termination of the agreement we are forging which will define the main features of the Marianas - U.S. political status. If you will excuse a note of levity, it seems inappropriate to my delegation to discuss the circumstances for possible separation or divorce while we are in the midst of arranging a marriage based on both mutual affection and mutual interest.

But while we look forward to a permanent relationship, it must be said at the same time that no relationship is immutable. The history of developments in other parts of the U.S. family over the decades shows quite clearly that the Federal Government has been responsive to local requests for modifications in these relationships as changes become appropriate and necessary. Moreover, any relationship is by definition subject to cancellation by mutual consent. There would thus seem to be no necessity for mentioning the termination question in the Marianas - U.S. status agreement.

Nor does it seem to us that in the close, sympathetic relationship being discussed there should be any need to establish a mechanism for review of U.S.-Marianas ties at stated intervals. Rather, the mechanisms of communication will be such that either side should feel encouraged to raise immediately, at any time, matters of mutual interest or concern. We should not have to wait five years. This is particularly relevant with respect to economic questions. The needs of the people of the Marianas will be kept under constant and continuing review through normal workings of the annual U. S. budget cycle. This permits immediate consideration of Marianas problems as they become manifest. They don't have to be deferred for consideration at the end of an arbitrarily determined review period.

Our two delegations are in agreement on many aspects of your proposed approach to framing and adopting a constitution for the Marianas. The U. S. delegation is pleased by your desire to incorporate in your constitution a detailed Bill of Rights. We agree with your comments on the separation of powers in a new Marianas Government, and we recognize the desire of the people of these Islands to elect their own chief executive.

We do not think it will be legally and constitutionally necessary, however, for the Congress of the United States to approve the Marianas constitution. Rather, the President of the United States would be given the authority to decide its sufficiency and insufficiency in terms of conformity to our agreement and the laws of the United States, including the U. S. Constitution. Similarly, the President could rule on the consistency of subsequent amendments to your constitution.

Our two delegations also seem to agree on how we should examine the U.S. Constitution to determine any specific provisions which should not be applicable to the Marianas. We want your specific suggestions, and for our part we have some ideas to submit for your consideration. I might say that my delegation preliminarily sees no problem in exempting the Marianas on local matters from those aspects of the Fifth and Seventh Amendments to the U.S. Constitution relating to grand jury indictment and the right to trial by jury. We believe that a total exemption from Article IV, Section 2, Clause 1 is too broad since American citizens should be accorded equal privileges and immunities other than in land. We are confident we can work with you to devise suitable arrangements to restrict future alienation of land to non-citizens of the Marianas as you desire.

We agree with your suggestion that our two delegations discuss the major federal laws which are to be applied to the Marianas and those which should be inapplicable. In order to begin that discussion, we would appreciate hearing your specific views in this regard.

We also agree with your useful recommendation that a joint commission be established to review the great body of other federal legislation to determine which parts of it might appropriately be applied in the Marianas. The same must be done for federal rules and regulations as well.

My delegation has assumed the Marianas would wish to embrace the U.S. federal court system and are somewhat surprised that you seem to be suggesting otherwise. If it is your desire, we have no problem with your establishing, as the Territory of Guam has done, local courts to adjudicate local matters. We are also prepared to let you decide if the appeals from these local courts would be through the federal court system. In any case, however, the federal court system must be used wherever federal laws are involved.

While my opening comments on the locus of sovereignty may have already implied the U.S. position on responsibility in the fields of defense and foreign affairs, I should note here that the federal government will naturally welcome the advice of the Commonwealth of the Mariana Islands on matters in which the latter has a particular interest, and the federal government will, as a matter of normal procedure, endeavor to keep the Commonwealth abreast of international development which might affect it. However, consultation as a matter of right would be inappropriate. No other state, Commonwealth or Territory has that right. Similarly, we would welcome the advice of the Commonwealth of the Marianas with respect to any international agreement the U.S. might enter into in the future which might affect the Marianas. However, we cannot agree to give the Mariana Islands a veto over such agreements.

The U.S. views sympathetically the Marianas' desire to participate in appropriate international and regional organizations concerned with economic, cultural and other comparable areas of interest. The membership of such organizations is determined by the charters of the organizations themselves. Most limit their membership to single representation from constituent parts of larger political groupings. On the other hand, some organizations like the subordinate bodies of the South Pacific Commission which might well be relevant to the Marianas' needs do permit membership by constituent units of a political family. We see no problem here in meeting the Marianas' desires.

Given the Marianas' understandable desire to develop local tourism and other commercial possibilities to the extent feasible, the Marianas may wish to establish outside the Commonwealth and outside the United States offices to foster cultural and commercial interest in these islands. The U.S. Government would be glad to see the Marianas do so, always assuming of course, that these offices conform to the general pattern of similar

establishments maintained abroad by U.S. cities, territories and states.

Your interest in having in the U.S. Congress a representative who would speak for the Marianas alone is understandable, but we are not overly optimistic that this can be arranged in the short-run. As you know, the matter of Congressional representation falls wholly within the purview of the U.S. Congress. We shall, of course, transmit your views to that body.

We do not fully understand the distinction you have drawn between U.S. citizenship and U.S. nationality in your outline of the options you think should appropriately be made available to each person of the Marianas. We agree that everyone should have the right to accept or reject U.S. citizenship. It has been our assumption that those rejecting citizenship will become resident aliens in the new commonwealth. The concept of "U.S. national" has little practical significance other than in the context of the workings of the U.S. Immigration and Nationality Act. The acceptance of a citizen-national option would prove to be a serious administrative inconvenience and would confer upon those inhabitants of the Mariana Islands who accept it an inferior and awkward status, especially if they should move into the rest of the United States. We would therefore prefer to omit that option unless you can demonstrate to us its significant practical utility.

Finally, it is probably premature to say very much about implementation of the status agreement to which we will finally put our signature, but my delegation is aware that this is a matter which is much in your minds. As we envisage the sequence of events, the U.S. Congress will enact enabling legislation for the commonwealth arrangement at the time it approves the agreement reached by our delegations; as soon as the locally drafted constitution for the Marianas is approved by the people of these islands and the President has approved its sufficiency, a separate administration for the Marianas will

be established under the Trusteeship Agreement in the event that the trusteeship has not yet been terminated. At that time most of the provisions of the U.S.-Marianas status agreement and of the Constitution of the Marianas will enter into force. When the trusteeship agreement is finally terminated for all the TTPI, there will be additional action by the Executive Branch to put the commonwealth relationship into full effect.