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I. U.S. INFORMAL SUMMARY OF STATUS ISSUES

I would like now to summarize those aspects of the political relationship on which it appears to the U.S. both sides agree and which, therefore, probably do not need further elaboration at this time.

Commonwealth Status. You have asked for a close permanent relationship with the United States, and have specified your preference for commonwealth status. We agree with you that a commonwealth relationship is appropriate. Both sides are agreed that sovereignty over the Mariana Islands will be clearly vested in the Government of the United States and that in this sense the arrangement will be "territorial" as that term is used in the U.S. Constitution.

Similarly, I understand you agree that the U.S. Government will have the authority to legislate for the Marianas under Article IV, section 3, Clause 2 of the U.S. Constitution subject to our being able to reach an understanding regarding the modification of major provisions of our agreement by mutual consent

Defense and Foreign Affairs. I think you understand that the U.S. must have unqualified authority in the realms of national security and foreign affairs. At the same time, the federal government will, as a practical matter, welcome any advice the Marianas might wish to offer on international matters of particular interest to it.

We shall support the Marianas' membership in regional or international organizations concerned with economic, cultural, or comparable areas of interest which permit representation from constituent parts of a political family. We have also observed previously that should the Marianas wish to do so, it may certainly establish abroad offices to promote local economic and tourist interests.

Self Government: Marianas Constitution. In the U.S. view the major distinction between a commonwealth relationship and an incorporated territory is the differing degree of self-government under the two arrangements. Commonwealth permits a maximum amount of self-government, subject only to the limita-

tions of the U.S. Constitution, the legislation setting up the commonwealth, and federal legislation applicable to all U.S. territories. Under the commonwealth arrangement the United States envisages, the Marianas will draft its own constitution. It will then be submitted to the people of the Marianas for ratification.

Although our side had thought it might be most expeditious to have the President of the United States judge the sufficiency or insufficiency of your constitution in the context of the U.S. Constitution and relevant legislation, we have no problem with your preference for approval of your constitution by the U.S. Congress.

Moreover, the U.S. accepts your proposal to leave it to the U.S. federal courts to determine the sufficiency or insufficiency of subsequent amendments to your constitution should they be challenged, rather than have the Executive Branch make a determination on sufficiency.

The U.S. again expresses its satisfaction at your desire to see a Bill of Rights incorporated in the Marianas constitution. Our side concurs with your concept of a separation of powers in the new Marianas Government and likewise agree that the people of the new commonwealth should elect their own chief executive.

Privileges and Immunities. There appears to be agreement that Article IV, Section 2, Clause 1 of the U.S. Constitution relating to "privileges and immunities" should apply to the Marianas, provided we can jointly work out arrangements meeting your understandable concern that your ability to restrict land transactions not be compromised. It is our belief that your concerns regarding land alienation can be allayed. This problem will be discussed further in subsequent meetings.

Judicial System. There seems to be broad agreement on the structure of a judicial system for the Marianas. You prefer to establish local courts to

handle purely local matters. It is our understanding that you wish to discuss with us further the question of whether to establish local appellate courts for litigation arising on such matters, or whether to have the appellate procedure be through the U.S. judicial system. In turn, we seem to be agreed that U.S. federal courts will handle matters relating to federal law. In this regard it probably will be appropriate to reconstitute the present U.S. District Court in Guam to cover the Marianas and Guam.

Marianas Representation in Washington. Our two delegations have discussed the question of Marianas representation in the U.S. Congress in the context of whether or not the U.S. Congress, under whose prerogative this matter rests, would be willing to agree to a non-voting delegate which would represent the Marianas exclusively. We have expressed our judgment - based on our preliminary consultations in Washington - that the U.S. Congress would be reluctant to do so because of the limited Marianas population. We have agreed nonetheless to fully support your request to the U.S. Congress.

II. SOME REMAINING QUESTIONS WHICH CAN BE RESOLVED NOW

I think the foregoing summarizes the areas in which we found ourselves in general agreement at the end of last week. I would now like to turn to fundamental matters which we did not resolve and which merit further mention this morning.

Mutual Consent to Substantial Alterations in the Commonwealth Relationship. You have asked for a provision in the instrument we ultimately draw up specifying that fundamental changes in the political aspects of the relationship between the Marianas and the United States can only be modified by mutual consent. If you and we have in fact reached preliminary understandings on all those aspects of the U.S. - Marianas arrangement I have listed in the

foregoing summary of what our side believes to be the common areas of agreement, we are willing to include in the agreement a provision for mutual consent on significant alterations in the basic structure of the relationship. I think both sides accept the necessity of exercising extreme care in the drafting process to insure that the mutual consent provision will apply only to major structural changes in the commonwealth arrangement.

Review Procedure. The U.S. has stated previously its belief that in the close relationship being envisaged, there will be a continuing dialogue about Marianas interests and needs which make it unnecessary to establish a separate periodic review mechanism. However, the U.S. Delegation would be willing to discuss this further after we have sketched in the basic framework of an ultimate agreement/^{if} you still feel that a built in review process deserves consideration.

III. QUESTIONS REQUIRING FURTHER DELIBERATION

There are several important matters relating to the nature of the Marianas - U.S. political relationship which our delegations believe will require further detailed consideration.

Applicability of U.S. Laws to the Marianas. During the weekend our respective legal advisers began examining the U.S. Constitution to determine which of its provisions should expressly be made applicable to the Marianas. They also began their discussion of major federal U.S. legislation to determine its applicability or inapplicability to the circumstances of the Marianas. We understand that it is your wish that the question of whether certain major areas of Federal legislation will apply in the Marianas be dealt with explicitly in whatever agreement we eventually conclude. These areas include taxes, immigration, customs, banking and currency, social security, maritime laws, labor standards

and the post office. I believe we agree that it is necessary to have these questions examined by our legal advisors in Washington, and to have the results of their deliberations presented in our next session for discussion and final decision.

Before leaving the subject of the applicability of federal legislation, let me re-state U.S. concurrence with your recommendation that a joint commission be established to study the large body of remaining federal legislation, rules and regulations the applicability of which we will not address specifically in our agreement.

Citizenship - Nationality. Our respective legal advisors began a useful joint examination last Saturday of the U.S. citizen-U.S. national option for the people of the Marianas which you have raised for consideration. We have proposed that your people be offered the opportunity of becoming American citizens. What remains to be determined is whether under U.S. law and past precedent they can be offered the alternative of U.S. national at the same time they are offered the possibility of citizenship. We have no objection in principle with this proposition but this is a technical matter which the U.S. Delegation believes should be studied further by both parties in Washington.

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The foregoing summarizes the U.S. view of the discussions thus far. I invite your comment on whether my summary accurately reflects your understanding of the areas of preliminary agreement. As noted, we shall still have a few basic questions to resolve such as the applicability of federal legislation and the citizen-national issue. However, if the areas of preliminary understanding are as broad as I believe them to be, we can take great satisfaction from knowing that our labors have begun well. These preliminary understandings on the basic foundation of the Marianas - U.S.

relationship will greatly facilitate our consideration of other major agenda items that lie ahead, and will provide a sound foundation for any joint statement we may wish to draft to sum up the current talks and for the ultimate commonwealth instrument we shall have to devise.

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