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ADEG/1 Nov 73

NOTES

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- P2. 1. The provisions relating to the "General Principles" are now being reworded to provide broader coverage, and will follow the style of the joint communiques.
- Sect. 105  
P. 3 2. The provisions relating to citizenship are those as proposed by the US legal group to the Marianas lawyers. Since then, the MSC legal group has submitted a counter proposal that has some merit and which we may wish to consider inserting, with some modification, into this agreement in lieu of the current language.
- SECT 304  
P. 8 3. It may be desirable to include a specific section to apply Section 1423 (d) of Title 48, as relates to oaths of affirmation and support. Further research is being done on this matter.
- Art. IV  
P. 10 4. The financial provisions may be reworked. Mr. Silver has a proposal now under consideration and the MSC legal group has surfaced some US tax provisions and customs statutes which they would like to see modified to meet the needs of the Mariana Islands. Generally, they follow current tax and customs treatment in the US territories of Puerto Rico, Virgin Islands and Guam and the MSC approach is to pick the best situation in each of these territories and have it apply to the Marianas, ie. Puerto Rico's income tax approach, Guam's customs approach and the Virgin Islands excise tax application. These are being reviewed more carefully, and we may wish to incorporate some of their suggestions into our agreement before hand.

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5. The creation of a Presidential Commission to study the applicability of US laws after the Commonwealth is established is a focus of concern by the MSC legal group. Willens believes that the MSC should have the opportunity to review the laws to be extended to the Marianas and to study how these laws will affect the Mariana Islands. It is also argued that the MSC should be assured that the fundamental elements of government [such as banking and currency laws, communications laws, FAA regulations, etc.] should be available to the new Commonwealth immediately upon effect of the agreement to enable the Commonwealth government to be viable. This concern appears to be centered upon the regulatory statutes of the Federal government, rather than the US programs and services and grants available from the USG. Willens would like to have the USG present a list of statutes it feels will be essential for USG operations in the Mariana Islands and some advice on how these statutes may affect the Commonwealth. The USG has responded by noting that it might be easier to have the MSC refer to the DOJ statute print-out and assume that those statutes made applicable to Guam under its organic act will also be desired by the US Congress to apply to the Marianas. The USG has also noted that Willens appears to be asking for an impossible task, ie. to draft an Omnibus Act before we get an agreement on status, which would take several years and which is better performed by the Presidential Commission and the US Congress in consultation with the Mariana Islands. Willens appears to be very firm on this position, however, to the point of blocking the agreement until we comply

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AGREEMENT ESTABLISHING A PERMANENT UNION BETWEEN  
THE NORTHERN MARIANA ISLANDS AND THE UNITED STATES

Whereas, the Mariana Islands District of the Trust Territory of the Pacific Islands hereinafter referred to as the Northern Mariana Islands, and the United States of America sharing common values and goals mutually desire to establish an enduring political relationship with each other; and,

Whereas, the people of the Northern Mariana Islands have for over twenty years, through public petition and referendum clearly expressed their desire to enter into such a relationship in order to attain the benefits inherent under the American system and expressed their desire that such a political union be permanent in nature; and,

Whereas, the people of the Northern Mariana Islands believe that their right, under the Trusteeship Agreement, to self-government may be fulfilled by becoming a permanent member of the American political family; and,

Whereas the United States of America in seeking to extend the benefits and privileges of the American system of government and to likewise establish a mutually satisfactory and enduring political relationship within the ideals and concepts of democracy, desires to accord the residents of the Northern Marianas the rights of self-government to which they are entitled under the Trusteeship Agreement for the Trust Territory of the Pacific Islands; Now Therefore

Know by all men whose presents are made, that the duly appointed representatives of the people of the Northern Mariana Islands, being the members of the Marianas Political Status Commission, and the Personal Representative of the President of the United States of America have at \_\_\_\_\_ (place) on this \_\_\_\_\_ day of \_\_\_\_\_ (month), 1973(4), hereunto affixed their signature

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in agreement to the following principles and attached Articles that shall govern the political relationship between the Northern Mariana Islands and the United States of America:

AGREED ARTICLES REGARDING THE ESTABLISHMENT OF  
THE COMMONWEALTH OF THE MARIANA ISLANDS

Article I

Section 101. The Northern Mariana Islands, known as the Mariana Islands District of the Trust Territory of the Pacific Islands, consisting of those islands and those territorial waters thereof which lie within the area north of 14° north latitude, south 21° north latitude, west of 150° east longitude, and east of 144° east longitude that are 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 Northern Mariana Islands".

Section 102. The relations of the Commonwealth of the Northern Mariana Islands with the United States shall be subject to the provisions of Article IV, Section III, Clause 2 of the Constitution of the United States and shall be conducted through such agency or agencies of the United States as the President may designate, provided that the following provisions of this agreement may be modified only with the consent of the Government of the Commonwealth of the Northern Mariana Islands: (LIST)

Section 103. The rights, privileges, and immunities of citizens of the United States shall be respected in the Marianas as though the Northern 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. This subsection shall not apply to the regulation of the alienation of real property or interests in real property for the purpose of restricting acquisition of such property or interests to persons of Northern Mariana Islands descent.

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Section 104. The following provisions of the Constitution of the United States shall apply within the Commonwealth as though it were a state of the union: Article I, Section 9, Clauses 2 & 3; Article I, Section 10; Article II, Section 2, Clauses 1 & 2; Article IV, Section 1; Amendments 1 through 9; Amendment 13; Sentence 2 of Section 1 of Amendment 14; Amendments 15 and 19.

Section 105 (a). All citizens of the Trust Territory of the Pacific Islands who are permanent residents of the Mariana Islands District at the time of the termination of the Trusteeship Agreement and who have taken no affirmative steps to preserve or acquire any foreign citizenship or nationality, shall have the choice of becoming citizens or nationals of the United States as of that date.

(b). Any person described in subsection (a) who does not wish to be a citizen of the United States shall make 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 18 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. Such person may elect at the time of such declaration to become a national of the United States or to retain his current national citizenship not including Trust Territory of the Pacific Islands citizenship, but only in the form and manner to be prescribed.

Section 106. All persons born in the Commonwealth of the Northern 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.

## Article II - Constitutional Convention

Section 201. The people of the Mariana Islands District shall form a government for these islands pursuant to a constitution of their own adoption as provided in and in accordance with this agreement.

Section 202. The District Legislature of the Marianas shall call a constitutional convention to write a constitution for the Mariana Islands District, the provisions of which shall be in accordance with these Articles. Each of the present electoral districts within the Mariana Islands District shall be represented in the constitutional convention.

Section 203. The constitutional convention shall prepare a proposed constitution for the Northern 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 Congress of the United States. If the Congress of the United States finds that the proposed constitution is not contrary to the Constitution of the United States of America, terms of this agreement, legislation implementing the articles, and any other relevant federal legislation, it shall so certify to the High Commissioner of the Trust Territory, who shall so advise the Mariana Islands District Legislature which shall then dissolve the constitutional convention. If the Congress finds that the proposed constitution does not meet the above criteria it shall so advise the High Commissioner of the Trust Territory of the Pacific Islands stating wherein in its judgment the constitution is deficient. The High Commissioner shall in turn submit such message to the constitutional convention for further action. The revised document shall be returned to the Congress of the United States and the same procedures repeated until the constitution is certified by the Congress.

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Section 204 (a). Upon certification by the Congress of the United States to the High Commissioner of the Trust Territory of the Pacific Islands in accordance with section 203 of this article 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 people of the Commonwealth of the Northern Mariana Islands hereby adopt the Constitution of the Commonwealth of the Northern Mariana Islands as certified by the Congress of the United States.*

(b). The High Commissioner of the Trust Territory of the Pacific Islands shall, within thirty days following the referendum, determine the results of that referendum and convey his 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, will issue a proclamation so stating, and the Constitution of the Northern Mariana Islands shall become effective upon termination of the Trusteeship Agreement.

Section 205. Amendments to the Constitution of the Commonwealth of the Northern Mariana Islands may be made from time to time as provided in that constitution. The courts of the United States shall be competent to pass on the consistency of such amendments with relevant provisions of the United States Constitution and of other federal law and these articles.



Article III - The  
Constitution of the Commonwealth  
of the Northern Mariana Islands

Section 301. The Constitution of the Commonwealth of the Northern Mariana Islands shall contain provisions for a republican form of government, that will consist of an elected executive, a legislative assembly and a judiciary system.

Section 302. The Executive. The executive power of the Government of the Commonwealth of the Northern Mariana Islands shall be vested in the Governor of the Commonwealth of the Northern Mariana Islands: The Constitution of the Commonwealth shall make provision for the popular election of the Governor and Lieutenant Governor and for the term and powers and functions of the Governor.

Section 303 (a). The Governor shall have the following powers and duties in addition to those conferred upon him by the Constitution and laws of the Commonwealth. He shall be responsible for the faithful execution of the laws of the Commonwealth and the laws of the United States applicable to the Commonwealth. He may, with the approval of the President of the United States, restore in the Commonwealth such civil rights as may have been lost as the result of convictions in Federal or State courts of the United States.

(b). Whenever it becomes necessary in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, the Governor of the Government of the Commonwealth may request of the President of the United States the assistance of the military or naval commanders of the Armed Forces of the United States.

(c). If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts, or portions thereof, to which he objects, and the items, or parts, or portions thereof, so objected to shall not take effect. This provision shall be in effect so long as funds have to be appropriated by the Congress of the United States. It may be thereafter extended by the Commonwealth..

Section 304. The Legislature. The legislative power of the Commonwealth shall be vested in a legislature, every member of which shall be popularly elected. All such members and all officers of the Government of the Commonwealth of the Northern Marianas shall take an oath or affirmation to support the provisions of the Constitution and laws of the United States applicable to the Northern Mariana Islands and the Constitution of the Commonwealth of the Northern Mariana Islands. The legislative power of the Commonwealth shall extend to all subject of local application and may not be inconsistent with the Constitution of the United States, terms of this agreement, or with those statutes enacted under the authority of the United States which are specifically applicable to the Northern Mariana Islands, including such statutes as may be enacted in the future.

Section 305. The Judiciary. Courts of the Commonwealth of the Northern Marianas shall have jurisdiction as prescribed by the laws of the Commonwealth. The operation of said courts will be compatible with the federal court system of the United States and consistent with applicable federal law.

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Section 306. The United States shall establish a District Court in the Commonwealth which shall have the same powers and jurisdiction as the District Court of Guam.

Section 307. All final judgments or decrees of the District Court of the Commonwealth 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 in accordance with such rules as that Court may prescribe and shall be subject to such further review in the Supreme Court of the United States as is provided in Title 28, USC.

Section 308. The appropriate 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 Commonwealth of the Northern Mariana Islands.

Article IV - Financial Assistance and Fiscal Provisions

Section 401. The United States will, subject to the availability of funds, provide up to \$ \_\_\_\_\_ million per year to the Government of the Commonwealth to assist in meeting the obligations of the Commonwealth Government. In no event shall such assistance continue for more than \_\_\_\_\_ years beyond the date of termination of the Trusteeship Agreement. Additional funds in the amount not to exceed \_\_\_\_\_ million per year may be extended for a period not to exceed \_\_\_\_\_ years to assist in implementing needed capital improvement projects.

Section 402. 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 Commonwealth, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Commonwealth and transported to the United States, its territories, or possessions, or consumed in the Commonwealth and the proceeds of any other taxes which may be levied by the Commonwealth on the inhabitants of the Mariana Islands and all quarantine, passport, immigration, and naturalization fees collected in the Northern Marianas shall be deposited in the treasury of the Commonwealth and shall be expended for the benefit of the people of the Northern Marianas as the Commonwealth Government may by law prescribe.

Section 403. Imports from the Commonwealth of the Northern Mariana Islands into the customs territory of the United States shall be subject to the same treatment as those from Guam.

Section 404. The levy of duties on goods imported into the Commonwealth from other than U.S. sources is hereby reserved to the Commonwealth Government.

Section 405. The Government of the Commonwealth of the Northern Mariana Islands 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 Commonwealth of the Northern Mariana Islands pursuant to the provisions of this chapter. Such reports shall be transmitted by the President to the Congress of the United States.

Section 406. In the exercise of its fiscal authority, the Commonwealth of the Northern Mariana Islands shall comply with the provisions specified in Annex A of this agreement.

Article V  
Public Property of the Commonwealth  
and Property Acquired by the  
United States

Section 501. Upon termination of the Trusteeship Agreement the title to all real and personal property in the Mariana Islands District owned by the Government of the Trust Territory of the Pacific Islands, and all interest 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 Commonwealth of the Northern Mariana Islands. 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 by local or customary laws or rights is held in private or communal ownership.

Section 502. All property and interests in property in the Commonwealth to be held by the United States not directly related to the defense responsibilities of the United States shall be acquired within three years from the effective date of this agreement and in the manner set forth in Annex B of this agreement.

Section 503. All agreements respecting property or interests in property in the Commonwealth held by the United States as of \_\_\_\_\_ attendant to its defense responsibilities shall continue in force and effect under the terms of the respective agreements notwithstanding the provisions of this agreement. The Commonwealth Government shall assure the rights and uses of such lands and waters as is or may be required by the United States in the exercise of its responsibilities for defense and security of the Commonwealth or of the United States and as set forth in Annex C of this agreement.

Article VI - Other Provisions

Section 601. The United States will welcome the advice of the Commonwealth Government on international matters directly affecting the Northern Mariana Islands.

Section 602. The United States will support the Commonwealth Government for 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.

Section 603. The laws of the U.S., Trust Territory, Marianas District of the TTPI, local municipalities, and all other executive or district orders now applicable in the Mariana Islands shall remain in force and effect until and unless repealed or amended by the appropriate governments.

Section 604. The rights of the United States to acquire property as set forth in Article V of these Articles <sup>and Article B and C</sup> shall be recognized in the Constitution of the Commonwealth.

Section 605. The Governments of the United States and the Commonwealth will undertake to consult at any time requested by either of them on matters relating to defense.

## Article VII - Transitional Provisions

Section 701. So much of the legislation of the U.S. Congress implementing these articles as relates to this agreement shall become effective upon the enactment of that legislation. So much of that legislation as deals with this agreement shall become effective upon the termination of the Trusteeship; provided, that the President shall have the power to make effective at an earlier date so much of the legislation relating to these articles and so much of the constitution of the Commonwealth of the Northern Mariana Islands as is consistent with the continuation of the trusteeship.

Section 702. 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, including federal service and assistance programs, and 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 Northern Mariana Islands on such date shall be made applicable to the Commonwealth of the Northern Mariana Islands upon the termination of the Trusteeship Agreement and which statutes shall remain inapplicable.



Article VIII - Effective Date and Ratification Procedures

ANNEX A

Pursuant to Article IV, the parties agree that in the exercise of its fiscal powers, the Commonwealth shall:

(a) Enact no law imposing any tax or levies upon property of the U.S. or property of the Commonwealth, nor shall taxes or levies be imposed on goods imported into the Commonwealth from the United States or any of its territories or exported from the Commonwealth to the United States or any of its territories or transported within the territories of the United States.

(b) Authorize no public indebtedness in excess of ten percentum of the aggregate tax valuation of the real property in the Northern Mariana Islands; bonds or other obligations of the Government of the Northern Mariana Islands payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Micronesia within the meaning of this provision.

The parties further agree that:

(a) All bonds issued by the Commonwealth Government 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, possession, the Commonwealth of Puerto Rico, or any political subdivision thereof, or by the District of Columbia.

(b) 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 Commonwealth\*.

*OPTIONAL* \*The Commonwealth Government shall support such revenues by the operation of local tax laws in such a manner as to render a more equitable application of the burdens of supporting the Commonwealth by its residents. (Check aspects of a Commonwealth Income Tax in lieu of a Federal Tax-e.g., Puerto Rico).

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ANNEX B

Pursuant to Section 502 of Article V of this agreement, the parties agree that the United States may acquire property and interests in property not <sup>C</sup>directly related to the defense responsibilities of the United States in the following manner:

(a) Within three years from the termination of the Trusteeship Agreement, the existing retention and use rights of the United States Government shall terminate, unless, within that time the United States proceeds to acquire, in accordance with subsection (c) or (d) hereof whatever rights in such lands may be considered necessary for the public purposes of the United States.

(b) 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 its assigns, and less any amount or amounts previously paid, gratuitously or otherwise, therefore.

(c) The United States Government, its departments, and agencies, are hereby authorized to, and may acquire for public purposes in the Commonwealth any property or any interest in property, including any temporary use, in accordance with this subsection and subsection (d). Such property, including that owned or controlled by private parties or the Commonwealth Government, 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 \_\_\_\_ of this Article.

(d) In the event the United States is unable to acquire property or an interest in property by negotiation in accordance with subsection (c), then it may acquire property or an interest therein in accordance with its Constitutional authority and presently established and future Federal law and procedures with respect to the acquisition of real property or an interest in real property.

(e) In the event an interest in private or communally-owned property is acquired pursuant to subsection (d) 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.

The parties are further agreed that:

During the three year period referred to in Section <sup>2.6</sup> V, 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 Commonwealth Government takes all such land as set forth in Section 501 of Article V of this agreement 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.

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Annex C

Pursuant to Section 503 of Article V of this Agreement, the parties agree that the United States may acquire <sup>property</sup> rights and uses in the lands and waters of the Commonwealth of the Northern Mariana Islands.

✓ The parties <sup>agree</sup> that the Commonwealth Government shall take all measures necessary to effect the transfer of title to the United States of the following areas:

(a) Tinian Island. Twenty-six thousand two hundred acres and encompassing waters immediately adjacent to the island shall be made available for the use of the United States to establish an integrated homogeneous basing area to minimize the total land area required by the United States in the Commonwealth.

(b) Saipan Island

(1) Isley Air Field. One thousand eight hundred nine and thirty-five hundredths acres shall be made available for the use of the United States, which shall at its discretion make available for the use of the Commonwealth Government such acreage as is not essential for the immediate exercise of its defense responsibilities.

(2) Tanapag Harbor. Six hundred forty and twenty-three hundredths acres shall be made available for the use of the United States, which shall at its discretion make available for the use of the Commonwealth Government such acreage as is not immediately essential for the exercise of its defense responsibilities.

(c) Farrallon de Medinilla Island. Two hundred twenty-nine acres encompassing the entire island and the waters immediately adjacent thereto shall be made available for use by the United States.

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In consideration for the above, the parties agree that the United States will pay to the Government of the Commonwealth of the Northern Mariana Islands the sum of \$ \_\_\_\_\_ for title to the lands and adjacent waters described above.

The parties are further in accord that the purchase agreements for the lands and waters listed above shall conform to the provisions of this Instrument and such lands and waters which conflict with the basic authorities and responsibilities of the United States for the defense and security of the Commonwealth and the United States under the Constitution of the United States. Such agreements will contain provision for reversion, protections against environmental damage, resettlement of occupants wherever necessary, joint undertakings of the parties to insure a balanced social and community growth, and such other provisions that will provide for the mutual benefit and security of the parties.

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