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MARIANAS POLITICAL STATUS COMMISSION

December 6, 1973

POSITION PAPER ON U.S. CITIZENSHIP
AND NATIONALITY IN THE COMMONWEALTH
OF THE MARIANA ISLANDS

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MARIANAS POLITICAL STATUS
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Position Paper on U.S. Citizenship and Nationality in the
Commonwealth of the Mariana Islands.

At the last session of the U.S. - Marianas Status Negotiations, the Commission submitted a proposal with regard to U.S. citizenship for Marianas residents under a future political status relationship with the United States. The key components of that position were (1) U.S. citizenship should be readily available to (if not automatically conferred upon) residents of the future Commonwealth of the Marianas, and (2) the status of U.S. National should be provided for those persons who might not wish to become American citizens.

During the recess since the last session of negotiations, this subject has been reviewed extensively in the joint working group of lawyers. Various drafts have been exchanged for technical review and comment. The Commission has received a full report regarding these meetings and has now had an opportunity to review a draft provision on this subject. Attached to this position paper is the Commission's proposal regarding U.S. citizenship and nationality in the Marianas.

Section-By-Section Analysis

Subsection (a). Subsection (a) describes the classes of persons to whom citizenship will automatically be extended upon termination of the Trusteeship. The lead-in to the subsection is a form used in collective naturalization

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acts for other territories. It picks up minor children of the persons who qualify for U.S. citizenship and provides for exclusion of certain persons (i.e., most foreign nationals). Since we have a number of subclasses of recipients of citizenship, the use of this lead-in provides an economical way to state the generic conditions for citizenship.

Subsection (a) (1). This category describes most of those who will be collectively naturalized pursuant to the status agreement. Note that "domicile" as well as "residence" in the Marianas will qualify (this picks up students and others temporarily overseas on the date of termination of the Trusteeship). We have introduced the concept of "domicile" into this and other subsections. We believe it is an essential concept because of the fact that many persons in the Trust Territory have multiple residences. This concept is not new to Micronesia: the present TT Code provisions for citizenship use the term "domicile". The concept of "domicile" also has a fairly well-established meaning in U.S. law. To the extent this term may be ambiguous, we have included a standard definition of "domicile" as subsection (f) of the proposal.

Subsection (a) (2). This is the first of the two subsections setting forth options for extending U.S. citizenship to additional classes of persons. Subsection (a) (2) describes TT citizens, not born in the Marianas, who had clearly committed themselves to life in the Marianas well before the termination of the Trusteeship. The Commission prefers the requirement of domicile for five years rather than any fixed cut-off date, because of the uncertainty as to when the Trusteeship Agreement will be terminated. The Commission also proposes that the persons covered by this subsection be required to register with a municipality in the Marianas before January 1, 1975, thereby providing

objective evidence of their intention to cast their lot with the Marianas in the future political status.

Subsection (a) (3). Subsection (a) (3) is an attempt to deal with a problem which may be significant for many permanent residents in the Marianas. The TT Code naturalization provisions are much narrower than the equivalent provisions for the United States. They make it impossible for certain persons, not born in the TT, to become TT citizens. The Commission has decided that persons who have clearly committed themselves to the Marianas (and many of whom are long-time Marianas residents and/or have married TT citizens) should not be denied the opportunity for U.S. citizenship merely because the TT Code prevented their naturalization as TT citizens. In this connection it is interesting to note that the collective naturalization acts for other territories typically have extended to all "inhabitants" of the territory -- and have not been limited to "citizens" of the territory under its previous administration.

Subsection (b). This subsection provides an opportunity for each person collectively naturalized under subsection (a) to elect to become a "national but not a citizen of the United States."

Subsection (c). This provision provides for citizenship by birth in the Marianas after termination of the Trusteeship. Children born before that date are entitled to be citizens or nationals if their parents qualify under subsection (a).

Subsection (d). This provision deals with the post-termination period and is designed to assure first, that children born of Marianas citizens will be entitled to United States citizenship even if they are born overseas. The subsection also provides that the residency requirement for citizenship through naturalization will be satisfied by residence in the Marianas--but only for "immediate relatives" of those persons who become United States citizens or nationals under this section. Other immigrant aliens must satisfy this residency requirement elsewhere. This feature would discourage in-migration of persons merely wishing to take advantage of the availability of United States citizenship. In this respect, the situation in the Marianas would be somewhat similar to that prevailing in American Samoa.

The Commission recognizes that this feature of its proposal was not discussed in the joint working group of lawyers. Accordingly, if general understandings can be reached on the goals reflected in subsection (d), the Commission would recommend that further discussions, of a technical nature, take place in the joint working group in order to explore how best to implement this aspect of our proposal.

Subsection (e). This subsection proposes that the courts of general jurisdiction organized under the Marianas constitution would have jurisdiction to naturalize persons as citizens of the United States -- as if they were "State courts"

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in the United States. This proposal in no way presupposes the absence or presence of naturalization jurisdiction in any federal court whose process would run to the Marianas.

Subsection (f). The provision defines "domicile" in a manner consistent with its accepted usage under American law.

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UNITED STATES CITIZENSHIP AND NATIONALITY
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(a) The following persons, and their minor children under the age of eighteen years on the date of termination of the Trusteeship, who are not citizens or nationals of the United States under any other provisions of law, and who have taken no affirmative steps to preserve or acquire foreign nationality, are declared to be citizens of the United States;

(1) All persons born in the Marianas who are citizens of the Trust Territory of the Pacific Islands on the date of termination of the Trusteeship, and who on that date reside or are domiciled in the Marianas or in the United States, the Virgin Islands, Guam, the Commonwealth of Puerto Rico or any other possession or territory of the United States;

(2) All persons who are citizens of the Trust Territory of the Pacific Islands on the date of termination of the Trusteeship, and who have been domiciled continuously in the Marianas for at least five years prior to that date and have registered with a municipality in the Marianas prior to January 1, 1975; and

(3) All persons who are not citizens of the Trust Territory of the Pacific Islands who were lawfully residing in the Trust Territory of the Pacific Islands on January 1, 1974, and who have been domiciled continuously in the Marianas since that date, and who, on the date of termination of the Trusteeship, owe no allegiance to any foreign state.

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(b) Any person who becomes a citizen of the United States solely by virtue of the provisions of paragraphs (1) through (3) of subsection (a) may within six months after the date of termination of the Trusteeship, or within six months after reaching the age of eighteen years, whichever date is the later one, make a declaration under oath before a court in the district wherein he resides in the form as follows:

"I . . . being duly sworn, hereby declare my intention to become a national but not a citizen of the United States."

Any person who makes this declaration shall be a national but not a citizen of the United States; provided further, that any person hereinbefore described who, within the period allowed for making the aforesaid declaration, shall have taken any affirmative steps to preserve or acquire foreign nationality, shall not be a citizen or national of the United States.

(c) All persons born in the Marianas on or after the date of termination of the Trusteeship, and subject to the jurisdiction of the United States, shall be citizens of the United States.

- (d) (1). After the date of termination of the Trusteeship, immediate relatives (including children, spouse, parents, brothers and sisters) of persons who become citizens or nationals of the United States solely by virtue of the provisions of this section shall have a right to become naturalized citizens of the United States to the same extent as persons residing in a State.
- (d) (2). After the date of termination of the Trusteeship persons born outside the United States of parents either or both of whom have become citizens of the United States solely by virtue of the provisions of this section shall become citizens of the United States at birth (and shall have the right to retain such citizenship thereafter) under the same terms and conditions as persons born outside the United States of parents either or both of whom became citizens of the United States by virtue of being born in a State.
- (d) (3). Solely for the purposes of paragraphs (1) and (2) of this subsection, residence or physical presence in the Marianas after the date of termination of the Trusteeship shall satisfy any residence or physical presence requirement

of the nationality and naturalization laws of the United States to the same extent as residence or physical presence, respectively, in a State.

(e). The courts of general jurisdiction established under the Constitution of the Marianas shall have jurisdiction to naturalize persons as citizens of the United States in accordance with applicable law.

(f). For the purposes of subsection (a) hereof, domicile means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which he has the intention of returning whenever he is absent, even for an extended period.