

12/11/73  
01  
2-6

U.S. WORKING DRAFT

US: 110830 DEC73

COVENANT ESTABLISHING A POLITICAL UNION BETWEEN  
THE NORTHERN MARIANA ISLANDS AND THE UNITED STATES OF AMERICA

Whereas, the United States of America fully recognizes and supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

Whereas, under the Charter of the United Nations and the Trusteeship Agreement between the United Nations and the United States the inhabitants of the Northern Mariana Islands are free to express their wishes for self-government or independence; and

Whereas, the people of the Northern Mariana Islands and the United States share the goals and values found in the American system of government based upon the principles of individual freedom and democracy; and

Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire to attain the benefits inherent in political union with the United States;

Now, therefore, the Marianas Political Status Commission, being the duly appointed representatives of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have agreed to this Covenant containing general principles and attached articles of agreement establishing a self-governing commonwealth for the Northern Mariana Islands within the American political system and defining the future relationship between the Northern Mariana Islands and the United States.

Title I

Upon termination of the present Trusteeship Agreement the Mariana Islands District of the Trust Territory of the Pacific Islands will become a self-governing commonwealth under the sovereignty of the United States to be known as "The Commonwealth of the Northern Mariana Islands".

Title II

The Commonwealth will govern itself pursuant to a Constitution of its own adoption as set forth in the attached Articles (hereinafter referred to as "Articles") and in accordance with this Covenant, applicable provisions of the United States Constitution, and applicable federal law. The Constitution of the Commonwealth will be framed by the people of the Northern Mariana Islands and adopted by popular vote. It will provide for a bill of rights, the separation of powers, and a popularly elected chief executive and legislature.

Title III

The government of the Northern Mariana Islands may establish local courts with such jurisdiction as may be prescribed by local law. Their operation will be compatible with the federal court system of the United States and consistent with applicable federal law. The United States will also establish a District Court in the Northern Mariana Islands with powers as set forth in the Articles.

Title IV

The people of the Northern Mariana Islands will be given the opportunity to become either citizens or nationals of the United States, as they may choose, with all the rights, privileges, immunities, and responsibilities pertaining thereto, as set forth in the Articles.

Title V

The United States will have full responsibility for and authority in the fields of foreign affairs and defense. In the exercise of its responsibilities in foreign affairs, the United States will consider the advice of the Commonwealth Government on international matters directly affecting the Northern Mariana Islands, will support Commonwealth membership in appropriate regional or other international organizations dealing with social, economic, and cultural matters of concern to the Commonwealth to the extent such organizations permit such representation, and will facilitate the establishment of Commonwealth offices abroad to promote the economic and cultural interests of the Commonwealth.

Title VI

The United States may enact legislation effective within the Northern Mariana Islands except as otherwise specified in this Covenant. The legislative powers of the United States will be exercised with strict regard for the preservation of internal self-government in the Northern Mariana Islands.

Title VII

Except as otherwise provided in this Covenant, the Commonwealth will regulate the alienation of all public and private lands so as to prevent their transfer to persons not of Northern Mariana Islands ancestry.

Title VIII

The Government of the Northern Mariana Islands will make land available to the United States Government for the exercise of its responsibilities in the Northern Mariana Islands as specified in the Articles. All United States property and interests in property in the Northern Mariana Islands shall be acquired pursuant to the procedures set forth in the Articles.

Title IX

The United States will extend financial support to the Northern Mariana Islands as agreed in the Articles. Such assistance will include funds to support an orderly transition to the new political status; funds to develop the Northern Mariana Islands economy toward self-sufficiency; the extension of federal programs and services; and other assistance in meeting future development needs.

Title X

Modification of the fundamental provisions of the Covenant listed in Article I may be made only by mutual consent of the Commonwealth and the United States. Amendments of the Constitution of the Commonwealth will not require approval by the United States, but federal courts will be competent to pass on their consistency with this Covenant, the United States Constitution and other federal law.

This Covenant shall be approved by the United States in accordance with its constitutional processes. It will be submitted to the Mariana Islands District Legislature and subsequently to the people of the Mariana Islands District for approval in a plebiscite to be called by the High Commissioner of the Trust Territory of the Pacific Islands. Approval must be by a majority of those voting in the plebiscite. All residents of the Northern Mariana Islands who would be eligible to vote in elections in the Trust Territory of the Pacific Islands if such elections were held on the day the plebiscite is conducted shall be eligible to vote in the plebiscite.

The results of the plebiscite shall be certified by the High Commissioner of the Trust Territory of the Pacific Islands to the President of the United States. The President of the United States will issue a proclamation announcing a date upon which the Commonwealth will be established, when he finds:

1. That the Covenant has been approved as set forth above; and
2. That the people of the Northern Mariana Islands have adopted a Constitution pursuant to the Covenant; and
3. That the Trusteeship Agreement has been terminated or will terminate on the date on which the Commonwealth will be established.

The provisions of the Covenant will become effective as specified in Article VIII.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 1974.

FOR THE NORTHERN MARIANA ISLANDS:

FOR THE UNITED STATES OF AMERICA:

\_\_\_\_\_

\_\_\_\_\_

ARTICLES OF AGREEMENT GOVERNING THE ESTABLISHMENT OF  
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ARTICLE I

Political Relationship

Section 101. The Northern Mariana Islands, now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, consisting of those islands and the territorial waters thereof which lie within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude that are now administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations (hereinafter referred to as the "Trusteeship Agreement") will upon termination of the 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 between the Commonwealth of the Northern Mariana Islands and the United States shall be governed by this Covenant. In the exercise of its powers the United States will be guided by its traditional respect for local self-government. The United States may enact legislation effective within the Commonwealth with the exception that the fundamental provisions of this Covenant, listed as follows, may be modified only with the consent of the Government of the Northern Mariana Islands:

(LIST)

Section 103.

(a) Except as otherwise provided in subsection (b) of this section, the following persons, and their children under the age of eighteen years on the effective date of this section, 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 Northern Marianas who are citizens of the Trust Territory of the Pacific Islands on the effective date of this section, and who on that date reside or are domiciled in the Northern 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 effective date of this section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, if of age to do so, have registered to vote in district elections in the Northern Mariana Islands prior to January 1, 1975; and

(3) All persons who are not citizens of the Trust Territory of the Pacific Islands on January 1, 1974, and who, immediately prior to the effective date of this section, have been domiciled continuously for at least five years in the Northern Mariana Islands and who, on that date owe no allegiance to any foreign state.

(b) Any person who becomes a citizen of the United States solely by virtue of the provisions of paragraph (1) through (3) of subsection (a) may within six months after the effective date of this section or within six months after reaching the age of eighteen years, whichever date is the later, 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."

(c) All persons born in the Northern Mariana Islands on or after the effective date of this section, and subject to the jurisdiction of the United States, shall be citizens of the United States.

(d) (Not yet agreed upon).

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

(f) For the purpose 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.



ARTICLE II

Constitutional Convention

Section 201. The people of the Northern Mariana Islands will form a government pursuant to a Constitution of their own adoption, as provided in this Covenant.

Section 202. The Mariana Islands District Legislature will call a convention to draft a Constitution for the Commonwealth of the Northern Mariana Islands, the provisions of which shall be in accordance with this Covenant. Each of the present electoral districts within the Mariana Islands District will be represented in the constitutional convention.

Section 203. The proposed Constitution for the Commonwealth of the Northern Mariana Islands will be submitted to the High Commissioner of the Trust Territory for transmission to the Congress of the United States not later than one year after the convening of the constitutional convention. If the Congress of the United States finds that the proposed Constitution is not contrary to applicable provisions of the Constitution of the United States of America, the terms of this Covenant and applicable federal law, it will by joint resolution so certify to the High Commissioner of the Trust Territory, who will so advise the Mariana Islands District Legislature which will then dissolve the constitutional convention. If the Congress finds that the proposed Constitution does not meet the above criteria it will so advise the High Commissioner of the Trust Territory stating wherein in its judgment the Constitution is deficient. The High Commissioner will 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 procedure repeated until the Constitution is certified by the Congress.

Section 204.

(a) Upon certification by the Congress of the United States to the High Commissioner of the Trust Territory in accordance with Section 203 of this Article, the High Commissioner will, 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 Northern Mariana Islands hereby adopt the Constitution of the Commonwealth of the Northern Mariana Islands as proposed by the Constitutional Convention and as certified by the Congress of the United States."

(b) The Constitution will be approved if a majority of the qualified votes cast in the referendum favor the adoption of the proposition. The High Commissioner of the Trust Territory will, within thirty days following the referendum, determine the results of the referendum and convey his determination to the President of the United States.

Section 205. Amendments to the Constitution of the Commonwealth of the Northern Mariana Islands may be made as provided in that Constitution. Such amendments will not require approval by the United States, but the courts of the United States shall be competent to pass on their consistency with this Covenant and with relevant provisions of the United States Constitution and other federal law.

ARTICLE III

The Constitution of the Commonwealth  
of the Northern Mariana Islands

Section 301. The Constitution of the Commonwealth of the Northern Mariana Islands will provide for a republican form of government with separate executive, legislative, and judicial branches, and shall contain a bill of rights.

Section 302. The executive power of the Government of the Northern Mariana Islands will be vested in a popularly elected Governor of the Northern Mariana Islands and such other officials as may be provided for under the Constitution. In addition to the responsibilities conferred upon it by the Constitution and laws of the Northern Mariana Islands, the executive branch of the Commonwealth Government will be responsible for the faithful execution of the laws of the Northern Mariana Islands and the laws of the United States applicable to the Northern Mariana Islands.

Section 303. 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 Northern Mariana Islands may request of the President of the United States the assistance of the Armed Forces of the United States.

Section 304. The legislative power of the Commonwealth will be vested in a popularly elected legislature. Its legislative power will extend to all subjects of local application and may not be exercised in a manner inconsistent with the applicable provisions of the Constitution of the United States, the terms of this Covenant, or with those federal statutes which are applicable to the Northern Mariana Islands, including such statutes as may be enacted in the future.

Section 305. Courts of the Northern Mariana Islands will have jurisdiction as prescribed by the laws of the Northern Mariana Islands. The operation of these courts will be compatible with the federal judicial system of the United States and consistent with applicable federal law.

Section 306. All members of the legislature and all officers of the executive and judicial branches of the Government of the Northern Mariana Islands will 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 to support the Constitution of the Northern Mariana Islands.

ARTICLE IV

Applicable Laws and United States  
Judicial Authority

Section 401. The following provisions of and amendments to the Constitution of the United States shall apply within the Northern Mariana Islands as though they were State of the Union: Article I, Section 9, Clauses 2,3,6, and 8, and Section 10, Clauses 1-3; Article IV, Section 1, and Section 2, Clause 2; Article VI, Clause 2 Amendments 1 through 4; Amendment 5, except as it provides a right to indictment by grand jury; Amendment 6; Amendment 7, except as it provides a right to trial by jury in non-criminal cases; Amendments 8 and 9; Amendment 13; Sentence 2 of Section 1, and Section 5 of Amendment 14; and Amendments 15 and 19.

Section 402. The privileges and immunities of citizens of the United States shall be respected in the Northern Mariana Islands 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. Except as otherwise provided in Article VI, the Government of the Northern Mariana Islands may nevertheless regulate 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 ancestry.

Section 403. Upon the effective date of this section and until such time as they may by law be made inapplicable (except as herein otherwise provided) the following laws will be applicable to the Northern Mariana Islands:

(a) The laws of the United States expressly made applicable to the Northern Mariana Islands.

7 (b) The existing laws of the United States applicable to the Trust Territory of the Pacific Islands;

(c) The laws of the United States applicable in the territory of Guam as well as in the several states in the same manner and to the same extent those laws are of general applicability;

(d) The laws of the Trust Territory of the Pacific Islands, of the Marianas District Legislature and local municipalities, and all other executive and district orders of a local nature now applicable to the Mariana Islands District, and not inconsistent with the laws of the United States set forth in subsection (a) to (c), will remain in force and effect until and unless repealed by the Government of the Northern Mariana Islands.

The term "laws of the United States" includes statutes, joint resolutions, treaties and Executive Agreements, proclamations, Executive Orders, judicial decisions, and regulations issued by the several departments, agencies, and regulatory commissions.

Section 404. The United States will establish a District Court which will have in the Northern Mariana Islands powers and jurisdiction equal to those of the District Court of Guam in the Territory of Guam.

Section 405. 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 will govern in such matters and proceedings between the courts of the United States and the courts of the Northern Mariana Islands.

ARTICLE V

Revenue and Taxation Provisions

Section 501. Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as those from the Territory of Guam.

Section 502. The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into the Northern Mariana Islands from any area other than the United States, its territories or possessions.

Section 503. The Government of the Northern Mariana Islands will:

(a) Enact no law imposing any tax or levies upon property of the United States or property of the Government of the Trust Territory of the Pacific Islands;

(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 will not be considered public indebtedness of the Government of the Northern Mariana Islands within the meaning of this provision.

Section 504. All bonds issued by the Government of the Northern Mariana Islands or by its authority will 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, the District of Columbia, or any political subdivision of any of them.

ARTICLE VI

Financial Provisions

Section 601. The Governments of the Northern Mariana Islands and the United States will undertake together such measures as will facilitate the achievement of economic self-sufficiency and higher standards of living for the people of the Northern Mariana Islands. To this end the United States will provide financial support to the Government of the Northern Mariana Islands in the form of assistance for budgetary support and economic development as set forth in Section 602, below. For its part the Government of the Northern Mariana Islands will enact a non-discriminatory, comprehensive internal revenue law. The personal and corporate income tax provisions and the estate and gift tax provisions will be progressive and will reflect local economic conditions.

Section 602. The support provided to the Government of the Northern Mariana Islands by the United States will consist in its totality of the following types of direct and indirect grant assistance and other payments:

a. Direct Assistance and Payments

(1) The United States will make available annually for the first five years following the effective date of this Section grants of  
\$ \_\_\_\_\_ million for budgetary support for government operations,  
\$ \_\_\_\_\_ million to be used for a Capital Improvement Program and  
\$ \_\_\_\_\_ million to be used for an economic development loan program  
to be carried out by the Government of the Northern Mariana Islands in  
the form of long-term, low-interest rate loans, which sums will  
be reviewed by the United States and the Northern Mariana Islands at  
the end of five years to determine the level at which they should be



continued in light of changing conditions.

(2) \$\_\_\_ million will be provided by the United States representing compensation at fair market value for the land made available to the U.S. Government for purposes specified in Article VII.

(3) The United States will also make available without cost to the Northern Mariana Islands the full range of Federal services and programs available to the Territories of the United States.

b. Indirect Assistance

From the first day of July following the effective date of this Section, there shall be paid into the Treasury of the Government of the Northern Mariana Islands to be expended for the benefit of the people of the Northern Mariana Islands as the Government of the Northern Mariana Islands may by law prescribe the following: all customs duties and Federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories, or possessions, or consumed in the Northern Mariana Islands; the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands; and all quarantine, passport, immigration, and naturalization fees collected in the Northern Mariana Islands. But, nothing in this subsection shall apply to any tax imposed by Chapter 2 or 21 of Title 26,

continued in light of changing conditions.

(2) \$\_\_\_ million will be provided by the United States representing compensation at fair market value for the land made available to the U.S. Government for purposes specified in Article VII.

(3) The United States will also make available without cost to the Northern Mariana Islands the full range of Federal services and programs available to the Territories of the United States.

b. Indirect Assistance

From the first day of July following the effective date of this Section, there shall be paid into the Treasury of the Government of the Northern Mariana Islands to be expended for the benefit of the people of the Northern Mariana Islands as the Government of the Northern Mariana Islands may by law prescribe the following: all customs duties and Federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories, or possessions, or consumed in the Northern Mariana Islands; the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands; and all quarantine, passport, immigration, and naturalization fees collected in the Northern Mariana Islands. But, nothing in this subsection shall apply to any tax imposed by Chapter 2 or 21 of Title 26, ~~United States Code~~.

Section 603. In addition to the foregoing, upon signature of the Covenant the United States will make available the sum of \$\_\_\_ million, subject to approval by the Congress of the United States, to cover the costs of transitional studies, programs and events related to the establishment of a new Government of the Northern Mariana Islands.

Section 604. The Government of the Northern Mariana Islands will 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 Northern Mariana Islands pursuant to the provisions of this Article. Such reports will be transmitted by the President to the Congress of the United States.

ARTICLE VII

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

Section 701. The title to the real and personal property in the Mariana Islands District owned or held by the Government of the Trust Territory of the Pacific Islands will be transferred to the Government of the Northern Mariana Islands no later than upon termination of the Trusteeship Agreement or earlier as determined by the President of the United States.

Section 702. The Marianas Political Status Commission, Mariana Islands District Legislature and successor governments or the government's designated entity will take all measures necessary to satisfy United States military land requirements of the following areas upon termination of the trusteeship and to provide the United States with use rights in those areas until such termination:

- (a) Tinian Island. Subject to Negotiation
- (b) Saipan Island. Subject to Negotiation
  - (1) Isley Air Field Area. Subject to Negotiation.
  - (2) Tanapag Harbor. Subject to Negotiation.
- (c) Farallon de Medinilla Island. Subject to Negotiation.

Section 703.

(a) The United States Government, its departments and agencies may acquire for public purposes property in the Commonwealth or interest in property, including any temporary use, including that owned or controlled by private parties or the Commonwealth Government, by purchase, lease, exchange, gift, or otherwise under such terms and conditions as may be negotiated by the parties.

(b) In the event the United States is unable to acquire property or an interest in property by negotiation in accordance with subsection (a), it may as a last resort 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. In any such acquisition, the amount to be paid for the property, or interest therein, will be the current fair market value of the interest acquired, exclusive of any amount or amounts previously paid, gratuitously or otherwise, therefore. In the exercise of the power of eminent domain, the United States will take due regard for the scarcity and special importance of land in the Northern Mariana Islands.

(c) Nothing herein will 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 701 above, subject to such agreements; providing, however, that such retention and use will at all times be consistent with the public purposes of the United States. Section 704. The purchase and lease agreements for the lands and waters listed in Section 702 shall conform to the provisions of this Covenant and such agreements will not contain any limitation on the use of such lands and waters which conflict with the basic authorities and responsibilities of the United States under the Constitution of the United States. Such agreements will contain provisions 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.

Transitional ProvisionsSection 801

(a) Unless otherwise specifically provided, Articles II and III: Sections 602(a) and 604 of Article VI, Sections \_\_\_\_\_ of Article VII, and Article VIII shall become effective upon the approval of the Covenant. The remainder of the Covenant shall become effective upon the establishment of the Commonwealth, provided, however, that the President of the United States will have the power to make effective at an earlier date so much of the remainder of this Covenant and so much of the Constitution of the Northern Mariana Islands as he deems consistent with the continuation of the Trusteeship. This power may include the establishment of an interim government for the Northern Marianas and their separate administration/in the Trust Territory of the Pacific Islands.

(b) Any determination of the President of the United States that the trusteeship has terminated or that it will terminate on the day of the establishment of the Commonwealth, or that any provision made effective by him is consistent with the continuation of the Trusteeship shall be final, and shall not be subject to review by any officer of the Executive Branch or by any court of the United States, nor by any authority of the Commonwealth. Section 802. The President of the United States will appoint a commission of seven persons, at least three of whom shall be residents of the Northern Mariana Islands, to survey the field of Federal statutes, including federal services and assistance programs. That commission shall make recommendations to the Congress of the United States, within twelve months after the establishment of the Commonwealth, as to which statutes of the United States not applicable to the Northern Mariana Islands should be made applicable to them and which statutes applicable at that time should be made inapplicable.