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December 19, 1973

JOINT COMMUNIQUE

From December 6 to December 19, 1973, the Marianas Political Status Commission and the President's Personal Representative met in Saipan for the third session of negotiations aimed at achieving political union between the present Mariana Islands District of the Trust Territory of the Pacific Islands (hereinafter called the Marianas) and the United States.

The session consisted of public plenary opening and closing meetings, many working meetings of the full delegations and discussions between sub-panels of advisers on technical matters. The discussions dealt initially with constitutional, legal and fiscal aspects of the future political relationship within the framework of a Commonwealth of the Marianas under the sovereignty of the United States. The discussion then moved to economic and financial assistance, land matters including United States land requirements, and methods of assuring an orderly transition to the new political status, including U.S. assistance for the planning and implementation of necessary transition measures.

During this session of the negotiations the parties arrived at several specific agreements within the broad areas of understanding reached last May and June. While a variety of specific formulations were discussed, there was no attempt to agree on language for a final agreement. The two sides reaffirmed that any such final agreement must be approved by the Marianas District Legislature, the people of the Marianas in a plebiscite, and the United States Congress.

Both delegations agree that this session has resulted in substantial progress toward the mutual goal of a secure and enduring place in the American political family for the people of the Marianas. Much work, however, remains to be done on a range of complex issues before the signing of a final agreement. To this end, a number of technical questions have been referred to panels of experts for further study between negotiating sessions.

The tentative agreements are set forth below:

I. The Nature of the Political Relationship:

A. Local Self-Government

1. It was agreed that specified fundamental provisions of the Status Agreement, including certain provisions designed to assure maximum self-government to the future Commonwealth of the Marianas may not be amended or repealed except by mutual consent of the parties. To this extent United States authority in the Marianas would not be plenary. The Status Agreement would be drafted so as to reflect clearly the intention of the United States and the Marianas Political Status Commission that this undertaking be enforceable in the federal courts. Specific recognition would also be made of the fact that approval of the Status Agreement by the people of the Marianas would constitute a sovereign act of self-determination.

2. Following this session of the negotiations, the joint legal working group will begin to draft those provisions of the Status Agreement most directly relating to local self-government to which the mutual consent provision will apply. The result of these efforts will be referred to the Marianas Political Status Commission and the President's Personal Representative to determine whether the respective interests of the parties would be adequately protected.

B. Citizenship and Nationality

1. With certain exceptions, persons born in the Mariana prior to the establishment of the Commonwealth, and certain classes of persons residing but not born in the Marianas would become United States citizens.

2. Any such person not wishing to be a United States citizen would have the right to become a "national but not a citizen" of the United States by making a declaration to that effect in court.

3. Persons born in the Marianas after the establishment of the Commonwealth would become citizens of the United States at birth. With very limited exceptions persons born overseas of parents who became United States citizens as a result of these provisions would also become citizens at birth.

4. The parties will explore further, through the joint legal working group, questions relating to the right of nationals and aliens residing in the Marianas after the establishment of the Commonwealth to become naturalized citizens of the United States.

C. Applicability of Federal Laws

1. The parties will explore, through the joint legal working group, a general formula to govern the interim applicability of existing federal laws in the future Commonwealth of the Marianas.

2. Such a formula should be consistent with other provisions of the Status Agreement now being negotiated and should take into account the body of federal legislation presently applicable to the Trust Territory. Each side will be free to propose any specific exceptions which appear necessary.

3. At an appropriate time after the Status Agreement is signed, a Joint Commission on federal laws will undertake a detailed study of relevant federal legislation and will make appropriate specific recommendations to the United States Congress regarding the future applicability of such legislation in the Marianas.

D. United States Federal Income, Estate and Gift Taxation

1. Those persons who reside in the Marianas and not in any other part of the United States, and who become United States citizens or nationals pursuant to the Status Agreement would be subject to federal income tax only on United States source income, not on income earned in the Marianas. Such persons would also not be subject to United States gift and estate taxation except with respect to property situated in the United States outside the Marianas.

2. It was agreed that the tax treatment provided for in Section 931 of the Internal Revenue Code would be extended to other United States citizens and to United States corporations doing business in the Marianas so that, in substance, they would not be subject to United States federal income tax on any foreign source income (including income earned in the Marianas) if they derive a certain percentage of their gross income from sources within the Marianas and other United States possessions derive a certain portion of such income from the active conduct of a trade or business in the Marianas and other United States possessions.

3. Section 872(b)(4) of the Internal Revenue Code, which provides that income derived from a series E or H United States savings bond is exempt from tax if an individual acquired the bond while a resident of the Trust Territory, would be amended to continue its application in the Marianas

the new political status -- at least with respect to bonds acquired prior to the establishment of the Commonwealth.

4. The future Government of the Marianas would have exclusive power to enact, amend or repeal its internal revenue laws. The people of the Marianas are committed to shouldering an increasing local tax burden, consistent with their stage of economic development, as part of their effort to achieve economic self-sufficiency. The provisions of the Status Agreement regarding United States financial assistance to the Marianas will reflect this commitment.

5. Alternative local tax laws, including forms of a progressive income tax and other taxes will be intensively studied during the transitional planning period. Both parties recognize, however, that a local income tax law based on the Federal Internal Revenue Code, such as that currently enforced on Guam, may not be appropriate at the present stage of economic development in the Marianas.

E. Customs Duties and Excise Taxes

1. The Marianas would not be included in the customs territory of the United States.

2. The Government of the Marianas would have the authority to establish a "duty-free port" and to enact local customs laws relating to imports from foreign countries, provided that this authority would be exercised in a manner consistent with the international obligations of the United States -- including the General Agreement on Tariffs and Trade (GATT).

3. Exports from the Marianas entering the customs territory of the United States would be free of any import duty subject to the same conditions now applicable to the Territory of Guam. The agreement of the United States to allow duty free entry of exports from the Marianas is subject

to the condition that such treatment not be inconsistent with United States international obligations. The United States will, if necessary in order to carry out this agreement, endeavor to obtain a special exemption to the GATT. Exports from the Marianas would not be entitled to enter the United States free of import duty if more than 50% of the value of the product derived from foreign materials. The parties will explore further whether the economic circumstances of the Marianas would warrant a higher percentage limitation on foreign material with regard to certain products.

4. The United States would seek to obtain from foreign countries favorable treatment of exports from the Marianas. The United States would consult fully with the Government of the Marianas in this regard. In particular, the United States would encourage other countries to consider the Marianas a "developing territory" within the meaning of the June 1¹ 25, 1971 GATT waiver regarding preferential tariff treatment for goods from developing countries and territories.

5. The Government of the Marianas would have the authority to impose duties on exports from its territory.

6. The authority of the Government of the Marianas to enact local internal revenue laws would include the authority to impose excise taxes on the manufacture or sale of goods. The Government of the Marianas would also be authorized to impose excise taxes on goods imported into its territory provided such taxes were consistent with the international obligations of the United States.

II. Transition Planning and Programs

1. The Marianas Political Status Commission and the United States agreed on the general nature and range of planning, programs, and activities which would take place during the period between the signing of the Status Agreement and the installation of the new government, referred to as the transition period. These activities are necessary to enable the new government to assume responsibility for local self-government in an orderly way and to move purposefully toward the realization of the Marianas' economic goals of a higher standard of living and ultimate self-sufficiency.

2. The scope of activities during the transition period would include:

(a) careful advance planning for and implementation of a political education program; (b) a plebiscite on future status; (c) a constitutional convention and referendum; (d) advance planning, including legal studies, relating to the organizational structure and initial legislative program of the new commonwealth government; (e) extensive planning to identify specific economic, social, and physical infrastructure needs; (f) studies to develop an appropriate government fiscal and revenue system; and (g) an examination of the economic and social impact on the Marianas of a relocation of the Capital of Micronesia.

3. The United States has agreed to fund these activities during the transition period. This negotiating sessions did not set a precise timetable or establish specific funding levels for these activities. However, a joint ad hoc preparatory committee will be established to prepare a detailed work plan, timetable, organization structure, and budget. The United States will seek funds immediately to underwrite the work of this interim committee.

4. The Ad Hoc Preparatory Committee will report to the Chairman of the two delegations no later than March 1, 1974 on the results of its deliberations.

The Chairmen will meet informally shortly thereafter, and before the next sessions of negotiations, to discuss how to proceed regarding implementation of the recommendations of the Ad Hoc Preparatory Committee.

III. Economics and Finance

1. The Marianas Political Status Commission and the United States exchanged views on the likely direction and pace of economic development in the Marianas following the change in political status. They examined approaches to realizing the mutually agreed economic goals of a steadily rising standard of living and the islands' progressive movement toward self-sufficiency. Between negotiating sessions experts representing the delegations will discuss further the manner in which a balanced program of economic development might be designed which would reflect and be consistent with both the Marianas' demonstrable needs and the economic resources likely to be available to the new government.

2. Under the arrangements proposed by the United States, direct and indirect financial support would be provided the new Government of the Marianas, once it was established.

a. The United States has proposed the following guaranteed levels of direct assistance for the first five years, which would be reviewed before the end of that period to determine future levels of U.S. financial support:

(1) \$7.5 million annually for budgetary support for government operations;

(2) \$3 million annually for Capital Improvement Projects; and

(3) \$1 million annual grant to a Marianas Development Loan Fund, replacing the Trust Territory Economic Development Loan Fund. *Potz*

In addition, an estimated \$3 million would be made available annually to the Marianas in the form of Federal Government programs and services of the *\$14.5*

type available in other territories.

Taken together these would represent approximately \$14.5 million of direct assistance annually.

To be added to this offer of various types of direct assistance would be the substantial annual returns to the Marianas from payment made by the United States for the use of land for public purposes, including military uses, in an amount still to be worked out.

b. Under the heading of indirect assistance that would accrue to the new government, the United States agreed to rebate to the Commonwealth all customs duties, excise taxes and federal income taxes collected by the United States Government and derived from the Marianas. These rebates are expected to build up at the end of five years to a level of \$4-5 million annually as added revenue for the Marianas and could be expended for such constructive purposes as the Marianas might decide.

3. Not included in any of the foregoing would be the indirect economic benefits to the economy as a whole, resulting from the establishment and maintenance of a U.S. military base complex in the Marianas. Though the exact amount is difficult to determine, the benefits both to the Marianas' Treasury and the people are likely to be very substantial in the United States' view.

4. Additionally, the United States anticipates that the Marianas economy would be growing as a result of the added financial resources provided through United States grants and expenditures as well as private investment, and that consequently the domestic tax base would be expanding sharply. To this would be added income from the disposal and lease of public lands.

5. At this session, no attempt was made to reach definitive agreements on United States financial assistance to the future commonwealth government.

The Marianas Political Status Commission noted that its own detailed studies to date indicate that a higher level of external assistance than that provided by the U. S. proposals would be required during the first five years under the commonwealth arrangement. However, the Commission has agreed to give the U. S. proposals careful consideration and to re-evaluate its own studies during the period before the next session of the negotiations.

IV. Land

Discussions of land involved two central topics: (1) the application of the new U.S. public land policy to the Marianas, including the implications of the cadastral survey program and Marianas plans for handling public lands when they are transferred to the District, and (2) the satisfaction of U.S. Government requirements for land in the Marianas.

A. U.S. Policy on Public Land

1. With regard to public land the Marianas Political Status Commission expressed its satisfaction with the U.S. policy statement of November 2, 1973, noting that it meets the desires and aspirations of the people for the return of public land to the district. It was recognized that responsibility for implementation of this policy in the Marianas rests with the Marianas District Legislature, the Trust Territory Administration and the United States Department of the Interior. However, the United States delegation will assist the Marianas Political Status Commission in its efforts to assure the prompt implementation of the policy in the Marianas. Implementation will include completion of the land cadaster program for public land and a concomitant acceleration of private land surveys, leading to a final settlement of outstanding claims and early completion of the land adjudication process.

2 The Marianas Political Status Commission indicated its intention to recommend the establishment of a non-profit corporation controlled by the people to receive and administer public lands once they are transferred to the Marianas District, which will continue in operation until public lands can be turned over to a new Government of the Marianas. The corporation would also be responsible for making the necessary public lands available to the United States Government under terms set forth in the final Status Agreement.

3. There was general agreement that military retention land not needed for military purposes would be returned to the public domain. The future use of the remaining military retention lands is a matter for negotiation by the two delegations in these status talks.

B. United States Land Requirements

The satisfaction of U.S. military needs in the Marianas was the subject of several discussions between the Marianas Political Status Commission and the United States delegation. The Marianas Political Status Commission proposed that United States requirements be met through a combination of long term leases for fifty years renewable at the end of that period and restrictive covenants made applicable to other areas limiting civilian uses to those compatible with future U.S. military needs. Specifically, the Marianas Political Status Commission proposed the following:

1. Farallon de Medinilla - The United States would be able to lease all of this small, uninhabited island for continued use as a target area, subject to the filing by the United States military forces of an environmental impact statement.

2. Tanapag Harbor, Saipan - The United States would be able to use the harbor jointly under civilian control. With respect to the United States request for 320 acres adjacent to the harbor and south of Charlie Dock, the

Marianas Political Status Commission proposed that all military retention land in this area be returned to the public domain. The Marianas Political Status Commission would, however, enter into appropriate agreements to restrict the civilian use of the 320 acres requested by the United States so as to be consistent with its possible future military uses and would make that land available to the United States later if needed.

3. Isley Field, Saipan - The field will be under civilian control and will continue to be available to the U.S. military forces on a joint use basis. 250 acres of land located near the south end of the field would be leased by the United States and an adjoining 250 acres would be made subject to restrictive covenants like those proposed for Tanapag.

4. Tinian Island - Negotiations would continue for a lease meeting United States needs for a joint service military base complex including harbor facilities to be used on a joint basis, an operational airfield with related facilities, the airfield to be open for civilian use, an ammunition and logistics support facility, an air, sea and land maneuver and training area.

The United States indicated that it continued to prefer purchase of needed land areas following termination of the Trusteeship. On Farallon de Medinilla it proposed to go forward with the negotiations to acquire the island and said it would submit an environmental impact statement.

On Saipan the United States offered to return 320 acres in military retention land at Tanapag for harbor development purposes but wished to retain the bulk of the remaining 320 acres to be developed as an American memorial park for the war dead of World War II, retaining the small remainder of the area for contingent military use. At Isley Field the United States continued to need 500 acres, but was willing to consider the Marianas Political Status Commission proposal further including a review of the proposed restricted

covenants for Tanapag and Isley.

On Tinian the United States indicated it still required approximately two-thirds of the land area for military purposes including the harbor and an adjacent safety zone. The remaining one third of the island, however, would stay under civilian control and ownership with landowners retaining title or, in the event of relocation, receiving monetary compensation or title to comparable new land. Where relocation might be necessary earlier offers of new private housing and community facilities remained in effect including roads and utilities.

The United States noted that on the basis of the foregoing any change in current policies regarding the disposition of public land in Tinian would be the subject of discussion between the two chairmen, appropriate representatives of Tinian, and the authorities of the Trust Territory.

It was agreed that the whole matter of United States military needs would be discussed further at the next negotiating session to be held in the spring. Meanwhile related technical questions would be discussed at a technical level and a working-group would be established to look further into questions which might be involved in future military-civilian relationships in the Marianas.

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