

June 21, 1974

MAJOR DIFFERENCES BETWEEN U.S. DELEGATION
AND MPSC DRAFT STATUS AGREEMENTS

Differences in Approach

Integrated Whole: The Covenant has both Titles and Articles, while the Commonwealth Agreement (CA) does not. The Covenant has space for signatures after the Titles and before the Articles, while the CA has signatures at the end of the entire document.

Enactment into Law: Both sides apparently agree on enactment, but the CA is in a form which obviates the need for subsequent substantive legislation to implement its provisions. The Covenant is sometimes in such a form (§ 602(b) re coverover), is sometimes not (§ 405 re courts), and is sometimes unclear (§ 602(a)(1) re Phase II funding is probably not sufficiently precise to be an appropriation, though this is not certain).

Timing: Under the CA, the Commonwealth would come into being before termination of the Trusteeship, and the provisions of the CA, except for U.S. sovereignty and citizenship, would become effective prior to termination. The Covenant provides that the Commonwealth will come into being at termination, though portions of the Covenant would become effective earlier (including Phase II direct grants, though perhaps not federal programs; and U.S. land use rights), and the President could make additional provisions effective prior to termination in his discretion (§ 802(a)). [Note that § 802(a)(1) of the Covenant, probably inadvertently, makes the citizenship provisions effective prior to termination.]

Specific Differences

Local Authority: CA § 205(a) grants Commonwealth authority in all matters of "local concern," while Covenant § 308 uses the term "local application" with respect to local legislative authority and spells out local executive and judicial authority in separate provisions, Covenant §§ 307 and 309, respectively.