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August 5, 1974

MEMORANDUM FOR DOUG THOMPSON

Subject: U. S. Judicial Authority in the Marianas

Attached is a redraft of the provisions of the status agreement, based on the assumption that we are going to give up our request for an Article III court. I would appreciate your comments, particularly on whether the matter in brackets is strictly necessary.

Michael S. Helfer

*Thompson 8/15/74 - he  
wants to do it this way as  
first preference but  
if forced to by US, this  
is all technically -  
MSH*

*File*

Draft

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U. S. JUDICIAL AUTHORITY

Sec. \_\_\_\_\_. The Northern Mariana Islands shall constitute a judicial district. There shall be in the judicial district of the Northern Mariana Islands a district court which shall be a court of record known as the "United States District Court for the District of the Northern Mariana Islands" [which shall be a court of the United States and a district court of the United States]. [The judicial district of the Northern Mariana Islands shall be within the same judicial circuit as is the judicial district of Hawaii.]

Sec. \_\_\_\_\_. The President shall nominate and, by and with the advise and consent of the Senate, shall appoint a district judge for the judicial district of the Northern Mariana Islands, who shall hold office for a term of eight years, and until a successor is chosen and qualified, unless sooner removed by the President for cause.

Sec. \_\_\_\_\_. The United States District Court for the District of the Northern Mariana Islands shall have the same jurisdiction as a United States District Court for a district within a state.

In addition, the United States District Court for the District of the Northern Mariana Islands shall have the jurisdiction conferred on it by Section [305] of this [Agreement], and such original and appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide.

Sec. \_\_\_\_\_. [For purposes of appeals from decisions of the courts of appeals to the Supreme Court, for purposes of review by the Supreme Court of final judgments or decrees, and] [f]or purposes of the original jurisdiction of the district courts based on diversity of citizenship, the Northern Mariana Islands shall be treated as if it were a State. The laws of the United States which govern relations between the courts of the United States and the courts of the several States with respect to appeals, certiorari, removal of causes, issuance of writs of habeas corpus, and other matters or proceedings shall govern the relations between the courts of the United States and the [local] courts of the Northern Mariana Islands as if the Northern Mariana Islands were a State.

Sec. \_\_\_\_\_. [U. S. judicial authority sections become effective at the same time as the applicability of laws formula becomes effective.]

POLITICAL RELATIONSHIP

Section 101. The Mariana Islands District shall upon termination of the Trusteeship Agreement become a self-governing commonwealth in political union with and under the sovereignty of the United States of America. The Marianas Islands District shall then be known as "the Commonwealth of the Northern Mariana Islands."

Section 102. (A) The relations between the Commonwealth and the United States shall be governed by this Agreement.

(B) The fundamental provisions of this Agreement governing the relationship between the United States and the Commonwealth may be modified only with the consent of the government of the United States and the government of the Northern Mariana Islands.

Section 103. The people of the Commonwealth shall have the right to govern themselves with respect to local affairs [shall exercise the right of local self-government] <sup>and shall govern themselves</sup> in accordance with a Constitution of their own adoption.

Section 104. (a) Consistent with the authority of the Commonwealth with respect to local affairs, the United States may make <sup>Federal</sup> legislation applicable within the Commonwealth. <sup>(b)</sup>

Section 105. The United States shall have full responsibility for and authority with respect to the foreign affairs and defense of the Commonwealth.

CITIZENSHIP AND NATIONALITY

[Same as present draft.]

CONSTITUTION OF THE NORTHERN MARIANA  
ISLANDS

Section 301. The Constitution of the Commonwealth shall be framed by representatives of the people of the <sup>Northern</sup> Mariana Islands ~~District~~ and approved by a popular vote. The people of the Commonwealth shall retain the right to initiate and approve constitutional amendments according to procedures provided in the Constitution.

Section 302. The Constitution of the Commonwealth shall be consistent with this <sup>A</sup>Agreement with those provisions of the United States Constitution and federal laws applicable within the Commonwealth.

Section 303. Except as provided in Section \_\_\_\_\_ [initial approval], the United States shall have no authority to review or disapprove the original provisions of the Constitution of the Commonwealth. Further, the United States shall have no authority to review or disapprove any amendments to the Constitution of the Commonwealth. The federal courts, however, shall be <sup>competent</sup>~~confident~~ to determine whether the Constitution and amendments thereto are consistent with this <sup>A</sup>Agreement and with those provisions of the United States Constitution and

federal laws applicable within the Commonwealth.

Section 30<sup>1</sup>. (a) The Constitution of the Commonwealth <sup>shall</sup> will provide for a republican form of government with separate executive, legislative and judicial <sup>shall</sup> branches, and will contain a bill of rights.

(b) The executive power of the Commonwealth ~~will~~ <sup>shall</sup> be vested in a popularly-elected governor and such other officials as may be provided for <sup>by</sup> ~~under~~ the Constitution.

(c) The legislative power of the Commonwealth will be vested in a popularly-elected legislature. The legislative ~~authority and power~~ of the Commonwealth shall extend to all rightful subjects of legislation <sup>and shall be exercised in a manner which is not inconsistent with this Commonwealth Agreement or with the provisions of the United States Constitution or federal laws applicable within the Commonwealth, but</sup> ~~Nothing in this Agreement or in the portions of the Constitutional laws of the United States applicable to the United States shall~~ be deemed to prohibit the Commonwealth from providing in its Constitution that the members of the legislative branch may be selected without regard to population.

(D) The judicial power of the Commonwealth shall be vested in such courts as the Constitution ~~and laws of the Commonwealth~~ may provide. [The operation of the courts of the Commonwealth will be compatible with the federal judicial system of the United States and will be consistent with

applicable federal laws.]

Section ~~106~~<sup>106</sup>. All members of the legislature of the Commonwealth and all officers and employees of the government of the Commonwealth shall take an oath or affirmation to support ~~the provisions of~~ [this agreement<sup>§</sup>, and] <sup>the provisions</sup> of the Constitution and laws of the United States applicable to the Commonwealth, and ~~to support~~ the Constitution and laws of the Commonwealth.