

JMWilson:10-11-74:kkc

03
2,3,4,5,6

MEMORANDUM FOR:

The Chairman, Marianas Political Status Commission
The President's Personal Representative for Micronesian
Status Negotiations

Subject: Report of the Joint Drafting Committee

Pursuant to decisions taken in May during the fourth series of negotiations in Saipan on the future political status of the Marianas, the joint Marianas-U.S. Drafting Committee has met in Washington, D.C. and considered various matters referred to it in the Joint Communique of May 31, 1974. We submit our report herewith.

The results of our discussions are reflected in the attached draft agreement which is recommended by the joint drafting committee for your consideration. The draft serves to record our tentative agreement on a number of substantive matters in addition to representing a recommended format.

Several substantive issues remain for resolution as reflected in the sections of the draft appearing in square brackets. These will require further examination and discussion by principals before the drafting process can continue.

Also left unresolved are two issues of form which will require further resolution. The first is the name to be attached to the agreement. The United States has suggested it be referred to as a "Covenant". The MPSC has suggested "Commonwealth Agreement". The second issue is the desirability of including a list of "general principles" between the preamb.

06 - 417156

and the articles which would set out in broad terms the major points of agreement between the United States and the Marianas, details of which would appear in the articles. The United States favors such inclusion; MPSC Counsel does not.

The joint committee is prepared to continue its deliberations as necessary to refine the text of the agreement further prior to the next formal negotiating session of the two delegations if that is the wish of the principals.

Howard P. Willens
Senior Representative
MPSC Drafting Committee

James M. Wilson, Jr.
Senior Representative
U.S. Drafting Committee

DRAFT
October 11, 1974

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

Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by consent, 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 for political union with the United States; and

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

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 entered into this Agreement in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political

06- 417158

system and define the future relationship between the Northern Mariana Islands and the United States, recognizing that approval of this Agreement by the people of the Northern Mariana Islands will constitute on their part a sovereign act of self-determination.

DRAFT
October 11, 1974

ARTICLE I

Political Relationship

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

Section 102. The relations between the Northern Mariana Islands and the United States will be governed by this Agreement which, together with the provisions of the Constitution, treaties or laws of the United States applicable within the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

Section 103. The people of the Northern Mariana Islands will have the right to govern themselves with respect to local affairs in accordance with a Constitution of their own adoption.

Section 104. The United States will have complete responsibility for and authority with respect to all matters relating to foreign affairs and defense affecting the Commonwealth of the Northern Mariana Islands.

Section 105. The United States may enact legislation in accordance with its constitutional processes which will be effective within the Northern Mariana Islands, being guided by its traditional respect for local self-government; but the fundamental

06-417160

provisions of this Agreement, listed as follows, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands:

(a) The Commonwealth relationship between the United States and the Northern Mariana Islands ^{as stated in the Compact} (established under Article I.)

(b) The right of the people of the ^{Northern Mariana} Marianas, to adopt and amend their own Constitution under Article II.

(c) The conditions under which citizens of the ^N Marianas ^{is} may become United States citizens or nationals under Article III.

(d) The application to the Northern Mariana Islands of specified provisions of the United States Constitution under Article V, Section 501.

(e) The procedures to be followed in the exercise of federal powers of eminent domain under Article VIII, Section 804.

[Section 101, relating to the establishment of the Commonwealth;

Section 102, providing that the relations between the Commonwealth and United States will be governed by the Agreement;

Section 103, guaranteeing to the people of the Marianas the right to govern themselves with respect to local affairs;

Section 105 (and Section 106, if any), dealing with United States legislative authority;

Section 201, guaranteeing the people of the Marianas the right to form their own constitution;

Section 202, limiting the authority of the United States with respect to the local constitution;

Section 203(c), dealing with reapportionment in the Marianas;
Section 301, dealing with U.S. citizenship;
Section 302, dealing with U.S. nationality;
Section 303, guaranteeing U.S. citizenship to persons born
in the Marianas;

Section 304, granting to citizens of the Marianas privileges
and immunities of citizens of the States;

Section 501, dealing with the applicability of the U.S.
Constitution;

Section 503; dealing with the applicability of certain impor-
tant laws;

Section 601; dealing with the applicability of the Internal
Revenue Code as to territorial tax;

Section 702, dealing with Phase II funding;

Section 803, dealing with the acquisition of land by the
United States;

Section 805; dealing with restraints on land alienation;

Section 901, dealing with the Resident Commissioner;

Section 1002 (to be revised), dealing with the establishment
of the Commonwealth;

Section 1003, dealing with effective dates;

Section 1005, dealing with the effective date of the Consti-
tution of the Marianas; and

Section 1006(b), defining the term "Northern Mariana Islands".]
[Section 106. Legislation which the United States could not make
applicable within a State of the Union may be made applicable

within the Commonwealth only if such legislation specifically provides that it will be applicable within the Commonwealth and if, taking into account the right of local self-government of the people of the Commonwealth, there is a compelling national interest in the application of such legislation within the Commonwealth.]

DRAFT
October 11, 1974

ARTICLE II

Constitution of the Northern Mariana Islands

Section 201. The people of the Northern Mariana Islands will formulate and approve a Constitution in accordance with this Agreement and may amend their Constitution pursuant to the procedures provided therein.

Section 202. The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Agreement and the applicable provisions of the Constitution and laws of the United States. Thereafter the original provisions of the Constitution and amendments to the Constitution will not be subject to approval or disapproval by the Government of the United States, except that federal courts will be competent to determine whether the Constitution of the Commonwealth and subsequent amendments thereto are consistent with this Agreement and with the provisions of the Constitution of the United States and federal laws applicable within the Northern Mariana Islands.

Section 203.

(a) The constitution will provide for a republican form of government with separate executive, legislative, and judicial branches, and will contain a bill of rights.

(b) The executive power of the Northern Mariana Islands will be vested in a popularly elected Governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

06-417164

(c) The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature, and will extend to all rightful subjects of legislation. [Nothing in this Agreement or in the provisions of the United States Constitution or federal laws applicable within the Northern Mariana Islands shall prevent the Constitution from providing for a distribution of the membership of the legislature on a basis which takes into account matters such as geographical or historical interests as well as population, provided such distribution is ratified by the people of the Northern Mariana Islands by their approval of the Constitution or amendments, thereto.]

(d) The judicial power of the Northern Mariana Islands will be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The operation of the courts of the Northern Mariana Islands will be compatible with the federal judicial system of the United States and consistent with applicable federal law.

Section 204. All members of the legislature of the Commonwealth and all officers and employees of the Government of the Commonwealth will take an oath or affirmation to support this Agreement, the provisions of the Constitution and laws of the United States applicable within the Commonwealth, and the Constitution and laws of the Commonwealth.

DRAFT
October 11, 1974

ARTICLE III

Citizenship and Nationality

Section 301. The following persons and their children under the age of 18 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, except as otherwise provided in Section 302:

(a) All persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date reside or are domiciled in the Northern Mariana Islands or in any area in or under the jurisdiction of the United States;

(b) All persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding 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, unless under age, have registered to vote in district elections in the Mariana Islands District prior to January 1, 197[5]; and

(c) All persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific

Islands, do not on that day owe allegiance to any foreign state, and who on that date have been domiciled continuously in the Northern Mariana Islands since at least January 1, 197[4].

Section 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any federal court or any court of record in the Commonwealth in the form as follows:

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

Section 303. All persons born in the Commonwealth 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.

Section 304. Citizens of the Northern Mariana Islands shall be entitled to all privileges and immunities of citizens in the several States of the United States.

DRAFT
October 11, 1974

ARTICLE IV

United States Judicial Authority

Section 401.

(a) The United States will provide for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands". The United States will provide a district judge for the District Court for the Northern Mariana Islands.

[(b) The United States shall provide for the Northern Mariana Islands a United States attorney and a United States marshall who, in addition to their regular functions, shall perform such functions relating to the execution of laws of the Northern Mariana Islands as may be assigned to them by the legislature.]

Section 402.

(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties and laws of the United States it shall have jurisdiction without regard of the sum or value of the matter in controversy.

(b) The District Court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a), jurisdiction over which has not been transferred by the legislature to another court or courts established by the Constitution or laws of the Northern Mariana Islands.

06-417168

(c) The District Court shall have such appellate jurisdiction as the legislature shall determine. When it sits as an appellate court, the District Court shall consist of three judges, at least one of whom shall be a judge of a court of record of the Northern Mariana Islands.

Section 403.

(a) The relations between the courts established by the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writ of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States pertaining to the relations between the courts of the United States and the courts of the several states in such matters and proceedings. For purposes of review by the Supreme Court of the United States of judgments and decrees of courts established by the United States, the Northern Mariana Islands shall be treated as if it were a State of the Union.

[(b) Those portions of Title 28 of the United States Code applicable with respect to the Territory of Guam or the District Court of Guam shall be applicable in the same manner with respect to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, except as otherwise specifically provided in this agreement.]

[(b) The court of appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the highest court

of the Northern Mariana Islands in all cases involving the Constitution, laws or treaties of the United States or any authority exercised thereunder, and in all habeas corpus cases [and in all other civil cases where the value in controversy exceeds \$5,000, exclusive of interest and costs,], unless those decisions are reviewable in the District Court of the Northern Mariana Islands pursuant to Section 402.]

DRAFT
October 11, 1974

ARTICLE V

Applicability of Laws

Section 501

(a) The following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were a State of the Union: Article I, Section 9, Clauses 2, 3 and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1, [sentence 1]; Article IV, Section 2; Amendments 1 through 9, inclusive; Amendment 13, [Section 1]; Amendment 14, Sections 1 and 5; Amendment 15, [Section 1]; Amendment 19, [sentence 1]; Amendment 26, [Section 1].

(b) Future amendments to the Constitution of the United States which do not apply of their own force in the Northern Mariana Islands will become applicable within the Northern Mariana Islands only with the approval of the Government of the Northern Mariana Islands and the United States Congress.

Section 502. The following laws of the United States in existence on the effective date of this section and subsequent amendments to those laws will be applicable in the Northern Mariana Islands:

(a) Except as otherwise provided for in Subsection (b) of this Section and Sections 503[, 60[5]] and 1003 of this Agreement, those laws which on that date are applicable to Guam and of general applicability in the several States.

06-417171

(b) The following laws will apply in the Northern Mariana Islands in the same manner and to the same extent as they apply to the Territory of Guam:

(1) The full range of federal services and programs, generally applicable to the several States and Territories;

(2) Sections 13, 25 and 25(a) of the Federal Reserve Act as amended (12 U.S.C. 466, and 601-632, respectively) and section 5191 of the Revised Statutes (12 U.S.C. 143);

(3) Title I, X, and XIV of the Social Security Act.

(c) Title I of the Public Health Services Act.

(d) The Micronesian Claims Act.

(e) Those laws not described in the preceding four paragraphs which are applicable within the Trust Territory of the Pacific Islands but not their subsequent amendments, unless specifically made applicable to the Northern Mariana Islands. Unless expressly otherwise provided such laws will cease to be applicable to the Northern Mariana Islands upon the termination of the Trusteeship Agreement.

Section 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable by the United States Congress after termination of the Trusteeship Agreement:

(a) The immigration and naturalization laws of the United States;

(b) The coastwise shipping laws of the United States, except as they apply to United States Government shipments; and

(c) The minimum wage provisions of the Fair Labor Standards Act, except as they apply to employees and contractors of the United States Government.

[Section 504. The Secretary of Commerce will issue regulations which provide that persons who are national but not citizens of the United States and who are domiciled in the Northern Mariana Islands will be considered citizens of the United States for the purpose of such provisions of the maritime and shipping laws of the United States as he deems appropriate.]

Section 50[5]. The President will appoint a Commission on Federal Laws to survey the field of federal statutory laws and to make recommendations to the United States Congress as to which statutes of the United States not applicable within the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable statutes should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least three of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private, and public interests in the applicability of federal laws within the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within two years after the effective date of this section, and before that time may make such interim reports and recommendations to the Congress as it considers appropriate

to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations, the Commission will take into consideration the effect of potential effect of each federal law on local conditions within the Northern Mariana Islands, the federal policies embodied in the law, and the provisions and purposes of this Agreement. [Unless the House of Representative or the Senate adopts a resolution which specifically disapproves all or part of the recommendations made in the final report of the Commission within one year after the final report has been received by the Congress, all or part of the recommendations therein, as the case may be, will have the force and effect of law.]

Section 50[6]. The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable within the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Agreement or with the provisions of the Constitution of the United States or federal laws applicable within the Northern Mariana Islands will remain in force and effect until and unless repealed by the Government of the Northern Mariana Islands.

DRAFT
October 11, 1974

ARTICLE VI

Revenue and Taxation Provisions

Section 601.

(a) The income tax laws in force in the United States and those which may hereafter be enacted shall be likewise in force in the Northern Mariana Islands as a separate territorial income tax, to be payable to the Government of the Northern Mariana Islands and to be known as the "Northern Mariana Islands Territorial Income Tax".

(b) As used in subsection (a) of this Section the term "income tax laws in force in the United States" includes but is not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this Section: subtitle A (not including Chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses, and forfeitures contained in chapter 75.

(c) In applying the Northern Mariana Islands Territorial Income Tax pursuant to Subsection (a) of this Section, except where it is manifestly otherwise required, the applicable provisions of the Internal Revenue Code of 1954 shall be read so as to substitute "The Northern Mariana Islands" for "the United States", "Governor or his delegate" for "Commissioner of Internal Revenue" and

06 - 417175

"Collector of Internal Revenue", "District Court of the Northern Mariana Islands" for "District Court", with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this Section.

(d) The administration and enforcement of the Northern Mariana Islands Territorial Income Tax shall be performed by or under the supervision of the popularly-elected Governor of the Northern Mariana Islands. The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Northern Mariana Islands Territorial Income Tax as the Secretary of the Treasury, and other United States officials of the Executive Branch, have with respect to the United States income tax.

[(e) The Legislature of the Northern Mariana Islands shall have the power by law to amend, alter, modify or repeal the Northern Mariana Islands Territorial Income Tax.]

Section 602. [Awaiting proposals from MPSC Counsel on application of the Internal Revenue Code in the Marianas as a Federal tax.]

Section 60[3].

(a) The Northern Mariana Islands will not be included within the customs territory of the United States.

(b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States,

[Section 60[5].

(a) Those laws of the United States which impose taxes to support the Old-Age, Survivors, Disability and Health Insurance Trust Funds, shall be applicable within the Northern Mariana Islands, but the tax on employees and employers within the Northern Mariana Islands shall be at the rate of one percent of so much of the employee's income as is subject to tax during the first year after the effective date of this Section, and shall increase by one percentage point (or fraction thereof) on both the employer and employee each year until the rate of tax on employers and employees within the Northern Mariana Islands is the same as in a State.

(b) Persons in the Northern Mariana Islands shall receive benefits from the Old-Age, Survivors, Disability and Health Insurance Trust Funds of the United States in the same manner and to the same extent as persons in a State, provided, however, that no person who receives benefits under this Subsection and under Subsection (c) of this Section shall receive a total amount which exceeds the maximum to which he would have been entitled if he had contributed to the Old-Age, Survivors, Disability and Health Insurance Trust Funds throughout the entire period he contributed either to those Funds or to the Trust Territory Social Security Retirement Fund.

(c) That portion of the Trust Territory Social Security Retirement Fund which has been paid in by persons who are domiciled in the Northern Mariana Islands, together with interest and earnings

thereon, shall be paid over to the Social Security Administration of the United States to be held as a separate fund (and to be supplemented by the United States if necessary) to pay benefits to such persons eligible for benefits in accordance with the laws of the Trust Territory of the Pacific Islands upon the effective date of this Section.]

Section 60[6].

(a) 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 United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

(b) For so long as the United States Government provides direct financial assistance pursuant to Article VII of this Agreement, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation of the property within the Northern Mariana Islands.

DRAFT
October 11, 1974

ARTICLE VII

United States Financial Assistance

Section 701. The Government of the United States will undertake together with the Government of the Northern Mariana Islands measures which will assist the people of the Northern Mariana Islands [to achieve a standard of living comparable to that within other parts of the United States and] to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support will be seven years, as provided in Section 702.

Section 702.

(a) Approval of this Agreement by the United States Congress will constitute an authorization for [and an appropriation of] the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following enactment:

(1) \$8 million for budgetary support for government operations; and

(2) \$4 million for capital improvement projects, of which \$500,000 each year shall be reserved for such projects on the island of Tinian and \$500,000 each year shall be reserved for such projects on the Island of Rota; and

(3) \$1.5 million for an economic loan fund, of which \$500,000 shall be reserved for small loans to farmers and

06-417180

fishermen and to agricultural and marine cooperatives.

(b) The United States will also make available to the Northern Mariana Islands the full range of Federal services and programs available to the Territories of the United States.

(c) Funds provided under Subsection (a) of this Section not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year shall remain available for obligation or expenditure by the Government in subsequent fiscal years for the purpose for which the funds were appropriated. Funds provided under Subsection (a) of this Section will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

(d) The enactment into law of this Agreement will constitute and authorization for [and an appropriation of] a pro-rata share of the funds provided under Subsection (a) of this Section for that period between enactment and the beginning of the next succeeding fiscal year.

(e) The amounts authorized [and appropriated] by Subsection (a) of this Section will be adjusted for each fiscal year by a percentage which is the same as the percentage change in the Guam Consumer Price Index using Fiscal Year 1975 as the base year.

(f) Upon expiration of the authorization [and appropriation] provided in Subsection (a) of this Section, the annual level of payments in each category listed in Subsection (a) of this Section will continue until Congress authorizes and appropriates

a different amount.

Section 703. There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as the Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands including the amount of taxes deducted and withheld by the United States under Chapter 24 of the Internal Revenue Code with respect to compensation paid to members of the Armed Forces who are stationed in the Northern Mariana Islands but who have no income tax liability to the Northern Mariana Islands with respect to such compensation by virtue of the Soldiers and Sailors Civil Relief Act, 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, and 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 nationalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

Section 704. The Government of the Northern Mariana Islands will submit to the President of the United States an annual report on the administration of the funds transferred to the

Government of the Northern Mariana Islands pursuant to Section 702, and such reports shall be transmitted by the President to the Congress of the United States.

DRAFT
October 11, 1974

ARTICLE VIII

Land

Section 801. The title to real and personal property remaining in the Mariana Islands District on the date of termination of the Trusteeship Agreement which is 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.

Section 802 ff. [Land areas to be acquired by the United States for defense purposes, to include disclaimer of present U.S. intent to acquire more land for defense purposes]

Section 80[3]. In the event it should become necessary in the future for the Government of the United States to acquire any interest in land not already made available to it under this Agreement, it may, upon notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with established federal laws and procedures any interests in land in the Northern Mariana Islands, whether owned or controlled by private parties or by the Government of the Northern Mariana Islands, by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. In such event, however, the United States Government will:

(a) Seek to acquire only the minimum of land necessary to accomplish the public purpose for which the land is sought,

respecting the scarcity and special importance of land in the Northern Mariana Islands;

(b) endeavor to obtain the minimum interest in land necessary to accomplish such public interest, acquiring title only if a lesser interest would not be sufficient to serve the public purpose; and

(c) attempt to acquire an interest in public rather than private land whenever the public purpose can be accomplished by the use of such public land.

Section 80[4]. (a) The United States Government will in all cases attempt to acquire any interest in land for public purposes by voluntary means. In the event this is not possible the United States will have and may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union, observing the principles set forth in subsection (a), (b) and (c) of Section 80[3]; provided, however, that in addition to all other requirements of law the United States will not exercise the power of eminent domain to acquire any interest in land within the Commonwealth until the Congress of the United States has by law explicitly authorized and approved the exercise of the power of eminent domain to obtain a particular interest in a particular parcel of land in the Commonwealth.]

[(b) Notwithstanding the provisions of Subsection (a) of this Section, upon a determination by the President that an

interest in land in the Commonwealth is needed for national defense purposes, the United States may take such an interest in land by eminent domain to the same extent and in the same manner as it can take an interest in land in eminent domain in a State of the Union. No interest in land taken pursuant to the preceding sentence will extend beyond nine months, at the end of which period the interest in land will revert to the original owner thereof, unless the United States shall have obtained an interest in such land under Section 80[3] or subsection (a) of this Section.]

Section 80[5]. Except as otherwise provided in this Article, and notwithstanding the provisions of Article V, the Government of the Northern Mariana Islands will [be empowered] regulate the alienation of all public and private real property or interests in such property for the purpose of restricting acquisition of such property or interests to persons of Northern Mariana Islands ancestry and will regulate the extent to which land now classified as public land can be held by individuals.

DRAFT
October 11, 1974

ARTICLE IX

Resident Commissioner and Consultation

Section 901.

(a) The Northern Mariana Islands may maintain in Washington, D.C. a Resident Commissioner who will be entitled to receive official recognition by all of the departments and agencies of the United States Government upon presentation, through the Department of State, of a certificate of [election from] [appointment by] the Governor of the Northern Mariana Islands.

(b) The Resident Commissioner will have a term of two years and will be [elected at the first general election to be held in the Northern Mariana Islands following the effective date of this section by the people qualified to vote for the members of the legislature, and subsequently at such general election every second year thereafter.] [appointed by the Governor of the Northern Mariana Islands by and with the advice and consent of the upper house of the Northern Mariana Islands legislature.]

(c) No person will be eligible for [election] [appointment] as Resident Commissioner who is not--

(1) a bona fide citizen of the Northern Mariana Islands, provided that any Resident Commissioner [elected] [appointed] after the termination of the Trusteeship must be a citizen of the United States; and

(2) at least twenty-five years of age.

(d) In case of a vacancy in the office of Resident Commissioner by death, resignation, or otherwise, the Governor, by

06-417187

and with the advice and consent of the upper house, shall appoint a Resident Commissioner to fill the vacancy, who shall serve the remainder of his predecessor's term and until his successor is [elected and] qualified.

Section 902. The United States Government and the Government of the Northern Mariana Islands shall consult regularly on all matters affecting the relationship between them, and if any special issues should arise, the President of the United States and the Governor of the Northern Mariana Islands will each appoint a special representative or representatives to consider such issues and make recommendations thereon. Special representatives shall be appointed in any event to consider and make recommendations regarding future financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of the initial seven year period of such assistance.

Section 903. Nothing herein shall prevent the presentation of cases or controversies arising under this Agreement to courts established by the United States. It is intended that any such cases or controversies will be justiciable in such courts, and that the undertakings by the United States Government and the Government of the Northern Mariana Islands provided for in this Agreement will be enforceable in such courts.

Section 904.

(a) The Government of the United States will give sympathetic consideration to the advice of the Government of the Mariana Islands on international matters directly affecting the Northern Mariana Islands.

(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

[(c) The United States will support membership by the Northern Mariana Islands in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters of concern to it, to the extent such organizations will permit such membership. The Government of the Northern Mariana Islands, with the approval of the Secretary of State, may negotiate and sign agreements with any international organization of which it is a member, provided that those agreements apply only to the Northern Mariana Islands and not to other parts of the United States.]

DRAFT
October 11, 1974

ARTICLE X

Approval, Effective Dates and Definitions

Section 1001.

(a) The Agreement will be promptly submitted to the Mariana Islands District Legislature for its approval. Within [120] days after its approval by the Mariana Islands District Legislature it will be submitted to the people of the Mariana Islands District for approval in a plebiscite to be called by the United States Secretary of the Interior. All residents of the Mariana Islands who would be eligible to vote in elections in the Mariana Islands District if such elections were held on the day of the plebiscite shall be eligible to vote in the plebiscite. Approval must be by a majority of the valid votes cast in the plebiscite. The results of the plebiscite shall be certified by the Secretary to the President of the United States.

(b) The Agreement will be approved by the United States in accordance with its Constitutional processes.

Section 1002. The President of the United States will issue a proclamation announcing a date upon which the Commonwealth will be established, when he finds:

(a) That the Agreement has been approved as set forth in Section 1001; and

(b) That the people of the Mariana Islands District have adopted a Constitution pursuant to the Agreement; and

Q- 417190

(c) That the Trusteeship Agreement has been terminated or will terminate on the date on which the Commonwealth will be established.

Section 1003. The provisions of this Agreement shall become effective as follows, unless otherwise specifically provided:

(a) Article I, Section 105 [Mutual Consent]; Article II, Sections 201-203 [Local Constitution]; Article V, Section 505 [Commission on Federal Laws]; and Article X [Approval, Effective Dates and Definitions] will become effective upon approval of this Agreement by the United States and the people of the Northern Mariana Islands.

(b) Article I, Section 102 & 103 [Supremacy Clause, self-government]; Article II, Section 204 [Oath of Office]; Article IV [U.S. Judicial Authority]; Article V, Sections 501-504 [Applicability of U.S. Constitution and Laws] and Section 506 [TT Laws]; Article VI [Taxes] and VII [Finance]; Article VIII, Section 802 and Section 805 [U.S. Land; Alienation]; and Article IX, Section 902 and 903 [Consultations and Controversies] will become effective 180 days after this Agreement and the Constitution of the Northern Mariana Islands have both been approved.

(c) The remainder of this Agreement shall become effective upon the establishment of the Commonwealth of the Northern Mariana Islands.

Section 1004.

(a) The application of any law of the United States or provision of the United States Constitution which would other-

wise apply within the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such law or provision of the United States Constitution prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement.

(b) Any determination of the President that the Trusteeship Agreement is or will be terminated on a certain day will be final and will not be subject to review by any authority of [the Trust Territory of the Pacific Islands,] the Northern Mariana Islands or the United States, including the courts thereof.

Section 1005. The Constitution of the Commonwealth of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Agreement specified in subsection (b) of Section 1003 become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement such provision shall be ineffective until establishment of the Commonwealth. Upon the establishment of the Commonwealth as provided in Section 1002, the Constitution will become effective in its entirety in accordance with its terms, as the Constitution of the Commonwealth of the Northern Mariana Islands.

Section 1006 . As used in this Agreement:

(a) "Trusteeship Agreement" means the Trusteeship Agreement entered into between the Security Council of the United Nations and the United States of America;

(b) "Northern Mariana Islands" means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north or 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

(c) "Government of the Northern Mariana Islands" includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Agreement is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

(d) "Territory or possession" with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Panama Canal Zone.

Signed at _____ on the _____ day of _____ 1974.

FOR THE PEOPLE OF THE NORTHERN
MARIANA ISLANDS

FOR THE UNITED STATES
OF AMERICA

Chairman, Marianas Political
Status Commission

Personal Representative of
the President of the
United States

Co-Chairman, Marianas Political
Status Commission