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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 preamble

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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

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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

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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.

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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

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 defined in this agreement} (established under Article I.]

(b) The right of the people of the ^{Northern Islands} 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.]

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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.

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(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.

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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

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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.

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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.

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(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.]

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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.

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(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.