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JOINT DRAFTING COMMITTEE WORKING DRAFT

October 17, 1974

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[MPSC: AGREEMENT TO ESTABLISH A SELF-GOVERNING
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN
POLITICAL UNION WITH THE UNITED STATES OF AMERICA]

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

[MPSC: Whereas, pursuant to a Trusteeship Agreement with the Security Council of the United Nations the United States of America presently administers the Mariana Islands District of the Trust Territory of the Pacific Islands; and]

[MPSC: Whereas, the people of the Mariana Islands District and the United States wish to define the future relationship between the Northern Mariana Islands and the United States; and]

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

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

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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;

[MPSC: Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the President's Personal Representative for Micronesian Status Negotiations, being the duly appointed representative of the United States, have entered into this Agreement, which shall be mutually binding and effective as provided herein, after it is approved by the Marina Islands District Legislature, and approved by the people of the Mariana Islands District in a plebiscite, constituting ^{as} their part a sovereign act of self-determination, and enacted into law by the United States in accordance with its constitutional processes.]

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[US: 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 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.]]

*This agreement will be next held
when it is approved by the US,
by the United States Legislature and by
the people of the Northern Mariana Is.
in a plebiscite, constituting on their
part a sovereign act of self-determination*

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ARTICLE I

Political Relationship

Section 101. The Northern Mariana Islands [MPSC: as defined herein] on 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 to 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 [MPSC: of ^{internal} local] self-government and will govern themselves with respect to local affairs in accordance with a Constitution of their own adoption.] [[US: to govern themselves with respect to local affairs in accordance with a Constitution of their own adoption].]

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Section 104. The United States will have complete responsibility [for] and authority with respect to [US: [all] matters relating to] foreign affairs and defense ^{NS}affection the [US: Commonwealth of the] Northern Mariana Islands.

Section 105. [U.S.: The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, ^{but} [being guided by its traditional ^{in order to} 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: [List].]

[MPSC: (a) The United States, accordance with Article IV, Section 3, Clause 2 of the Constitution of the United States, may, except as otherwise provided in this Agreement, enact legislation applicable to the Northern Mariana Islands, provided that legislation which the United States could not make applicable to a State of the Union may be made applicable to the Northern Mariana Islands only if such legislation specifically provides that it shall be applicable to the Northern Mariana Islands and if, taking into account the right

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of local self-government of the people of the Northern Mariana Islands, there is a compelling national interest in the application of such legislation to the Northern Mariana Islands.

[(b) Notwithstanding any other provision of this Agreement, or of the Constitution or laws of the United States, or of the Constitution or laws of the Northern Mariana Islands, 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: [List].]

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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. [US: 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.] [MPSC: The United States shall approve the original provisions of the Constitution as provided in Section _____ of this Agreement.] Thereafter the original provisions of the ~~Constitution~~ ^(All Northern Mariana Islands) and amendments thereto will not be subject to approval or disapproval by the Government of the United States, except that courts ^{of or} established by the United States will be competent to [^] determine whether the Constitution and subsequent amendments thereto are consistent with this Agreement and with those provisions of the Constitution of the United States and federal laws applicable to the Northern Mariana Islands.

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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.

(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. [MPSC: 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 this 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. [U.S.: The

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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 Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Agreement, the provisions of the Constitution and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

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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 the United States or any territory or possession thereof;

(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

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(c) All persons domiciled in the Northern Mariana Islands on the day preceding the 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 vertue 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 court established by the United States 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.

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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

[U.S.: United States] Judicial Authority

constitute

Section 401. (a) The United States will [U.S.: provide] [MPSC: establish] for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands." ^{which will be a part of the} [MPSC: The United States ^{Judicial circuit for the United States,} will provide a District Judge for the District Court for the Northern Mariana Islands.]

*OS provide
MPSC
District*

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

*MPSC
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[H.M. Tentative Alternative: The United States Attorney for the District of the Northern Mariana Islands will at the request of the Government of the Northern Mariana Islands represent that Government in all civil and criminal matters to which that Government is a party, including the prosecutions of offenses against the laws of the Northern

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Mariana Islands in the District Court for the Northern Mariana Islands and the courts established under the Constitution or laws of the Northern Mariana Islands. The United States Marshal for that district when so requested by the Government of the Northern Mariana Islands will execute all lawful writs, process and orders issued by the courts established under the Constitution or laws of the Northern Mariana Islands and perform the duties of a peace officer for the Northern Mariana Islands.]

Section 402. (a) The District Court for the Northern Mariana Islands will have the jurisdiction of a District Court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction without regard

of the sum of value of the matter in controversy.

(b) The District Court will 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 [MPSC: In causes brought in the District Court solely on the basis of this Subsection, the District Court shall be considered a court of the Northern Mariana Islands for purposes of the applicability of the United States Constitution.]

related jurisdiction →

(c) The District Court will have such appellate jurisdiction as the legislature may provide. When it sits as appellate court, the District Court will consist of three judges, at least one of whom will 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 writs of habeas corpus, and other matters or proceedings will be governed by the laws 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. [MPSC: For

note:
Gu - local prosecutor, prosecutes local crimes in local cts.
VI - US only prosecutes local crimes in local cts.
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*US court give MPSC
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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.]

US accept

MPSC: (b) Those portions of Title 28 of the United States Code which apply to the Territory of Guam or the District Court of Guam will be applicable in the same manner to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise specifically provided in this Agreement.]

*note on (c)
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[U.S.: ^c(k) For the first 15 years following the establishment of an appellate court of the Northern Mariana Islands, 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 from which a decision could be had 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 civil cases where the value in controversy exceeds \$5,000, exclusive of interest and costs, unless those decisions are reviewable in the District Court for the Northern Mariana Islands pursuant to Section 402 (c).] Thereafter,

the final judgments or decrees rendered by the highest court of the Northern Mariana Islands from which a decision could be had may be reviewed by the Supreme Court of the United States in the same manner and to the same extent as if the Northern Mariana Islands were one of the several States.