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JMWilson:10-23-74:kkc

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

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; the MPSC 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 23, 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 of internal self-government and will 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 and authority with respect to matters relating to foreign affairs and defense affecting 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, in order to respect the right of the people of the Northern Mariana Islands to self-government guaranteed by this Agreement, the United States agrees to limit the exercise of that authority with respect to the

following fundamental provisions of this Agreement to the extent that they may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands:]

[MPSC: (a) The United States, in 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 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:]

(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 Mariana Islands to adopt and amend their own Constitution under Article II.

(c) The conditions under which citizens of the Northern Mariana Islands 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.

[MPSC: (e) Section 503; dealing with the applicability of certain important laws.

(f) Section 601; dealing with the applicability of the Internal Revenue Code as to territorial tax.

(g) Section 702, dealing with Phase II funding.

(h) Section 803, dealing with the acquisition of land by the United States.

(i) Section 805; dealing with restraints on land alienation.

(j) Section 901, dealing with the Resident Commissioner.

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

(l) Section 1003, dealing with effective dates.

(m) Section 1005, dealing with the effective date of the Constitution of the Northern Mariana Islands, and

(n) Section 1006(b), defining the term "Northern Mariana Islands".]