

JOINT DRAFTING COMMITTEE WORKING DRAFT

October 23, 1974

AGREEMENT TO ESTABLISH A [MPSC: SELF-GOVERNING]
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN
POLITICAL UNION WITH 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 United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; 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;

Now, therefore, the Marianas Political Status Commission, being the duly appointed representative 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 to define the future relationship between the Northern Mariana Islands and the United States. This Agreement will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature, and by the people of the Northern Mariana Islands 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 ~~as defined herein~~ ^{MPSC.} 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 of local self-government and will govern themselves with respect to internal 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 matters relating to foreign affairs and defense affecting the

Northern Mariana Islands.

Section 105. [US: 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 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: [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 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.]

[MPSC: ^b(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 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].]

[MPSC: (c) Consent by the United States or the Northern Mariana Islands will be given in a manner to be determined by their respective Constitution or laws, provided however that prior to the termination of the Trusteeship Agreement consent by the Northern Mariana Islands may not be given without the approval of the legislature thereof.]

respective

~~NOTE: The Committee recommends that the following provisions be subject to mutual consent: Article I, Article II, Article III, and Section 501. The MPSC representatives have proposed that the following provisions be subject to mutual consent as well: Section 503, 601, 702, 80[3] [acquisition of property by the United States], 90[4] [restraints on land alienation], 901, 100[3] [effective dates], 100[4(b)] [effective date of local constitution], 100[6(b)] [definition of Northern Mariana Islands].~~

Present Status of Mutual Consent List

US and MPSC:

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:]

[MRSC: (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^{MPS only;}, 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 ^{financial assistance} ~~Phase II funding~~.

(i) Section 803⁵, dealing with the acquisition of land by the United States.

(h) Section 805⁴; dealing with restraints on land alienation.

(j) Section 901, dealing with the ^{Delegate and} ~~Resident Commissioner~~.

(k) Section 1002 ⁹ ~~(to be revised)~~, dealing with the establishment of the Commonwealth.

(l) Section 1004, dealing with effective dates.

(m) Section 1005^{5(b)}, dealing with the effective date of the Constitution of the Northern Mariana Islands, and

(n) Section 1007⁷(b), defining the term "Northern Mariana Islands".⁷

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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 100³ [1] of this Agreement.] Subsequent amendments to the Constitution of the Northern Mariana Islands may be made by the people of the Northern Mariana Islands without approval by the Government of the United States, but ^{the} courts ~~of or~~ established by ^{the Constitution or laws of 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, treaties or laws of the United States applicable to 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.

(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 Constitution or laws of the United States applicable to the Northern Mariana Islands shall prevent the Constitution of the Northern Mariana Islands 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.

[US: 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 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 treaties 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

(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 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.

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.

NOTE: Brackets in Sections 301(b) and (c) indicate an issue reserved for the principals, not disagreement within the Committee.

October ³⁰ ~~23~~, 1974

ARTICLE IV

Judicial Authority

Section 401. ~~401~~² The United States will establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands." *The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.*

~~[MPSC: (b) The United States will provide for the Northern Mariana Islands a United States Attorney and a United States Marshall 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.]~~

~~[US: ^b(c) 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 ^soffences against the laws of the Northern 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 the ^ddistrict 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~~

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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 was 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 application of the United States Constitution.]

(c) The District Court will have such appellate jurisdiction as the legislature may provide. When it sits as an appellate court, the District Court

Article IV, p. 3

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 ~~of or~~ established by the ^{a Contribution from 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 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.]

~~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, ^{respec-}tively, except as otherwise specifically provided in this Agreement.]

[US: (c) 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.]~~

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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 [MPSC: ,sentence 1], and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13 [MPSC: ,Section 1]; Amendment 14, [US: Sections 1 and 5] [MPSC: Section 1]; Amendment 15 [MPSC: ,Section 1]; Amendment 19 [MPSC: ,sentence 1]; Amendment 26 [MPSC: , Section 1].

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

Section 502. [This Section states the formula for the applicability of federal laws to the Northern Mariana Islands. The various versions of the formula now being considered are attached as an annex to this Article.]

Section 503. ^(a) 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:

¹ (1) the immigration and naturalization laws of the United States;

² (2) the coastwise [US: shipping] laws of the United States [MPSC: and any prohibition in the laws of the United States against foreign vessels landing fish or fish products in the United States]; ^{and} ~~[US: except as they apply to United States Government shipments] [MPSC: provided that shipping laws shall apply to the Northern Mariana Islands as provided in Section 502 to the extent they concern United States Government shipments]; and~~

³ (3) The minimum wage provisions of the Fair Labor Standards Act, as amended, ~~[US: except as they apply to employees and contractors of the United States Government]~~

(b) Nothing in this Section shall be deemed to prevent the application of laws of the United States which concern United States Government shipments or impose minimum wage requirements on employees or contractors of the United States Government. (with respect to)

under Section 502

~~[MPSC: provided that the minimum wage provisions of laws relating to employees and contractors of the United States Government shall apply as provided in Section 502].~~

[MPSC: Section 504. Appropriate officials of the United States Government will be empowered to issue regulations providing that persons who are nationals 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 such officials deem 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 to 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 to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship, and before that time will 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 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. [MPSC: Unless the House of Representatives 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.] The United States will bear the costs of the work of the Commission.

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 to 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 to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

[MPSC: Section 507. (a) At such time as the naturalization laws of the United States are made applicable to the Commonwealth of the Northern Mariana Islands they shall apply in a manner consistent with Subsections (b), (c) and (d) of this Section.

(b) Children, spouse, brothers and sisters of persons who are nationals or citizens of the United States who are domiciled in the Commonwealth, shall have a right to become naturalized citizens of the United States to the same extent as persons residing in the United States.

(c) Persons born outside the United States of parents either or both of whom are citizens or nationals

of the United States who are domiciled in the Commonwealth shall become citizens of the United States at birth (and shall have the right to retain such citizenship thereafter) under the same terms and conditions as persons born outside the United States of parents either or both of whom became citizens of the United States by virtue of being born in a State.

(d) For purposes of Subsections (b) and (c) of this Section, and for the purposes of a person who becomes a national of the United States pursuant to this Agreement becoming a citizen of the United States, and for no other purpose, residence or physical presence in the Commonwealth shall satisfy any residence or physical presence requirement of the naturalization laws of the United States to the same extent as residence or physical presence respectively in a State of the Union.

(e) The courts of record of the Commonwealth and the District Court for the Northern Mariana Islands shall have jurisdiction to naturalize persons as citizens of the United States with accordance with applicable law.]

Annex to Joint Drafting Committee
Working Draft of Article V
Formula for Applicability of
Federal Laws

(Revised, Oct. 30, 1974)

Technical Subcommittee Proposal, September 10, 1974:

Section --- The following laws of the United States in existence on the effective date of this Section, and subsequent amendments to such laws, shall apply ^{to} ~~within~~ the Northern Mariana Islands as follows, except insofar as the applicability of such laws would be inconsistent with [Sections ___ of] this Agreement:

(a) Those laws which provide financial assistance, or which are part of the federal banking laws, or which are part of Titles I, X, or XIV of the Social Security Act shall apply as they apply ^{to} ~~within the Territory of~~ Guam; and the Public Health Services Act shall apply as it applies ^{to} ~~in the Territory of~~ the Virgin Islands;

(b) Those laws not described in Subsection (a) which have provisions making them applicable ^{to} ~~within the Territory of~~ Guam, and which are of general application ^{to} ~~within the~~ several States, [shall apply as they are of ^{such} general application]; ^{to} ~~within the several States];~~

(c) Those laws not described in Subsections (a) or (b) which have provisions making them applicable ~~within~~ ^{to} the Trust Territory of the Pacific Islands shall apply in accordance with their terms until termination of the Trusteeship Agreement, and (except for the Micronesian Claims Act, which shall continue to apply in accordance with its terms) shall thereafter be inapplicable.

United States Proposal, October 11, 1974:

Section ---. 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~~ ^{to} 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~~ ^{to} the several States.

(b) The following laws will apply ~~in~~ ^{to} the Northern Mariana Islands in the same manner and to the same extent as they apply to ~~the Territory of~~ ^{to} 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 ^{to} ~~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.

MPSC Proposal, October 22, 1974 ;

Section ---(a) Laws of the United States in existence on the effective date of this Section, and subsequent amendments to the such laws, applicable to ~~the Territory~~ ^[geographic] of ^{Guam} ~~Guam~~, other than laws which are of singular application to ~~that Territory~~, shall apply in the same manner and to

[such laws shall apply so as to govern intraterritorial matters within the Northern Mariana Islands only to the extent that they govern intrastate matters within the several States]

Annex to Article V, p. 4

the same extent to the Northern Mariana Islands, except as otherwise provided in this Agreement; provided however, that [no such law shall apply so as to govern intraterritorial matters within the Northern Mariana Islands where similar intrastate matters are not so governed].

(b) The Micronesian Claims Act, as amended, shall continue to apply to the Northern Mariana Islands.

(c) The Public Health Services Act, as amended, shall apply to the Northern Mariana Islands to the same extent and in the same manner as it applies to the Territory of the Virgin Islands.

(d) Those laws not described in Subsections (a), (b) and (c) of this Section which, on the effective date of this Section, apply to the Trust Territory of the Pacific Islands, shall continue to apply to the Northern Mariana Islands; but subsequent amendments to such laws shall not apply to the Northern Mariana Islands unless such amendments specifically so provide. Unless expressly otherwise provided, the laws described in this Subsection will cease to apply to the Northern Islands upon termination of the Trusteeship Agreement.

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ARTICLE VI

Revenue and Taxation Provisions

Section 601 ^{① [MPSC!]} ~~[tentative acceptance on both sides]~~

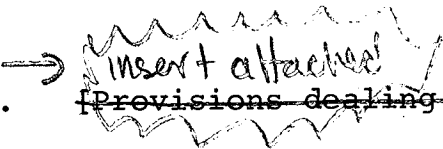
(a) The income tax laws in force in the United States and those which may hereafter be enacted shall be likewise in force in the Northern Mariana Islands as a separate territorial income tax, to be payable to the Government of the Northern Mariana Islands and to be known as the "Northern Mariana Islands 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 "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 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.  ~~[Provisions dealing with the application of the Internal Revenue Code as a federal tax now being drafted by MPSC representatives.]~~

Section 603. (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,

(1) levy duties on goods imported into its territory from any area outside the customs territory of the United States;

[US: (2) impose duties on exports from its territory.]

[MPSC: (c) The Government of the Northern Mariana Islands will have the exclusive authority to impose duties on exports from its territory.]

~~October 24~~ 1974

~~Article VI~~
Title VI

~~Internal Revenue Code~~
Internal Revenue Code

[IMPSC:]

Section ~~201~~ (a) The United States Internal Revenue Code of 1954 (the "~~Internal Revenue Code~~") shall apply by its terms to persons and entities within the Northern Mariana Islands who are subject to the taxing jurisdiction of the United States by reason of citizenship, place of incorporation, residence or source of income, except as ^{otherwise} provided in this ~~Title VII~~ ^{Article}.

(b) In the case of an individual who is a resident of the Northern Mariana Islands and a United States citizen or United States national solely by reason of his being a citizen of the Northern Mariana Islands, or his birth or residence within the Northern Mariana Islands,

(1) Income derived from sources without the United States shall be exempt from United States federal income tax and income derived from sources within the United States shall be subject to such tax under Section 1 of the Internal Revenue Code;

(2) The federal estate tax shall apply only to that part of the gross estate which at the time of death is situated in the United States and shall be imposed at the rate provided by Section 2101 of the Internal Revenue Code (relating to nonresidents who are not citizens); and

* NOTE: This draft is intended to set forth only the most basic principles and must be supplemented by a detailed statutory draft of technical changes that will be required in the Internal Revenue Code.

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[(3) ~~The~~ federal gift tax shall only apply to gifts of tangible property situated within the United States.

[(c) ~~g~~ References in the Internal Revenue Code to possessions of the United States shall be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof.]

[(c)] [US: To the extent such treatment would be consistent with the international obligations of the United States,] [I]mports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from ~~the Territory of~~ Guam into the customs territory of the United States. The United States will, if necessary [US: in order to extend such treatment, endeavor to] [MPSC: to implement ~~its obligation under~~ this Subsection,] obtain appropriate waivers or modifications of its international obligations.

[(d)] The United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands, as will encourage other countries to consider the Northern Mariana Islands a developing territory.

~~MPSC:~~ Section 604. (a) The United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within the several States.]

~~MPSC:~~ (b) The Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory

or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.]

[MPSC: Section 605. (a) Those laws of the United States which impose taxes to support the Old-Age, Survivors, Disability and Health Insurance Trust Funds will be applicable to the Northern Mariana Islands, provided that the tax schedule with respect to employers and employees in the Northern Mariana Islands for the first year after the effective date of this Section will be the same as the schedule relating to the Trust Territory Social Security Retirement Fund on the day preceding the effective date of this Section. Thereafter, the tax will increase by one percentage point (or fraction thereof) on both employer and employee with respect to so much of the employee's income as it is subject to tax under the laws of the United States each year until the tax imposed in the Northern Mariana Islands is the same as that in a State of the Union.]

[MPSC: (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.

[MPSC: (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, by 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) [MPSC: During the initial seven year period of financial assistance provided for in Section 702,] [US: 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.

October 23, 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 [MPSC: 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 multi-year 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 will constitute an authorization for [MPSC: 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 the effective date of this Section:

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, 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.

[US: 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.]

JOINT DRAFTING COMMITTEE WORKING DRAFT

October 24, 1974

[MPSC: Delegate] [vs:

ARTICLE IX

{Resident Commissioner} and Consultation

Section 901. [MPSC: At such time as the population of the Northern Mariana Islands exceeds 50,000 persons, or sooner as determined by the Congress of the United States, the qualified electors of the Northern Mariana Islands will choose a Delegate from the Northern Mariana Islands to the House of Representatives of the Congress of the United States. After termination of the Trusteeship Agreement, the Delegate from the Northern Mariana Islands must be a citizen of the United States. Those provisions of law applicable to the Delegate from ~~the Territory of~~ Guam will apply in like manner to the Delegate from the Northern Mariana Islands, except that ^{Section 3(b) of Public Law 92-271,} ~~48 U.S.C. 1713 (b)~~ (as amended,) shall not apply until the election following the seventh year after termination of the Trusteeship.]

(b)
[MPSC:] Until such time as a Delegate has been selected pursuant to Subsection (a), the Government of the Northern Mariana Islands may appoint, or provide by law for the election of, a Resident Commissioner to the United States, whose term of office will be determined by the Government of the Northern Mariana Islands and who will be entitled to receive official recognition as such Commissioner by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The United States will provide the Resident Commissioner with the same compensation, allowances and benefits as are provided to the Delegate from ~~the Territory~~ of Guam.]

[US: (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.]

[US: (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].]

[US: (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.]

[US: (d) In case of a vacancy in the office of Resident Commissioner by death, resignation, or otherwise, the Governor, by and with the advice and consent of the upper house, will appoint a Resident Commissioner to fill the vacancy, who will serve the remainder of his predecessor's term and until his successor is [elected and] qualified.]

Section 902. [US: The United States Government and the Government of the Northern Mariana Islands will 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.] [MPSC: The United States Government and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.] Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, ~~and will~~ ^{to} meet as least one year prior to the expiration of ^[US:] the initial seven year] period of such financial assistance.

[MPSC: every]

JOINT DRAFTING COMMITTEE WORKING DRAFT

October 24, 1974

TITLE X

Approval, Effective Dates,
and Definitions

Section 1001. (a) This Agreement will be [MPSC: promptly] submitted to the Mariana Islands District Legislature for its approval. Within --- days after its approval by the Mariana Islands District Legislature, this Agreement will be submitted to the people of the Mariana Islands District for approval in a plebiscite to be called by the United States. All residents of the Northern 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 will be eligible to vote in the plebiscite. ^{Approval must be by} ~~This Agreement will be approved if~~ a majority of the valid votes cast in the plebiscite ~~favor approval.~~ The results of the plebiscite will be certified [US: by the Secretary of the Interior] to the President of the United States.

(b) [MPSC: Approval by the United States will be given when this Agreement has been enacted into law in accordance with the constitutional processes of the United States] [US: The Agreement will be approved by the United States in accordance with its constitutional processes].

EMASC:

Section 1002. The Commonwealth of the Northern Mariana Islands will be established upon termination of the Trusteeship Agreement, approval of this Agreement as provided in Section 1001, and the adoption of a Constitution by the people of the Northern Mariana Islands. The President of the United States will issue a proclamation announcing the establishment of the Commonwealth.]

~~1002. Section 1002.~~ ^{US:}

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

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[MPSC: Section 100]. (a) The Constitution of the Northern Mariana Islands will be drafted and approved by the people of the Northern Mariana Islands in a manner to be determined by the Mariana Islands District Legislature.

~~100~~ (b) Within thirty days after the approval of the Constitution by the people of the Northern Mariana Islands, copies of the Constitution will be transmitted to the President and the Congress of the United States. Not less than thirty nor more than 120 days thereafter, the President will issue a proclamation stating that the Constitution is approved by the United States, unless he finds that the Constitution is not consistent with this Agreement or those portions of the United States Constitution and federal laws which will apply to the Northern Mariana Islands pursuant to this Agreement. If the President finds that the Constitution of the Northern Mariana Islands is not so consistent, he will transmit a statement of the reasons for his determination to the Mariana Islands District Legislature.

[c) The ^{provided for} provisions in this Section will be repealed as necessary until the Constitution is approved by the people of the Northern Mariana Islands and by the United States

[Consultations and Controversies] will become effective 180 days after this Agreement and the Constitution of the Northern Mariana Islands have both been approved;]

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

[Note: MPSC version of effective dates now being drafted]

Section 100~~5~~. (a) The application of any law of the United States or provision of the United States Constitution which would otherwise apply to 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 prior to termination would be inconsistent with the Trusteeship Agreement.

(b) The Constitution 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 Section 1003(b) become effective, provided that if the President finds and declares that the effectiveness

of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement, such provision will be ineffective until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands, 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 100~~6~~. [MPSC: The United States will make all good faith efforts to terminate the Trusteeship Agreement at the earliest practicable date, in its entirety or insofar as it affects the Northern Mariana Islands.] Any determination by the President of the United States 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 of or established thereby.

Section 100~~7~~. As used in this Agreement:

(a) "Trusteeship Agreement" means the Trusteeship Agreement for the former Japanese Mandated Islands entered into between the Security Council of the United Nations

and the United States of America, entered in to force on July 18, 1947;

(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 of 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 the Puerto Rico, the Virgin Islands, Guam, American Samoa and the Panama Canal Zone.

[MPSC: Section 1006. The United States will, for purposes of administration, separate the Northern Mariana Islands from the remainder of the Trust Territory of the Pacific Islands in accordance with the request of the Mariana

Islands District Legislature as promptly as possible after the approval of this Agreement by the people of the Northern Mariana Islands.]