

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 11, 1974

AGREEMENT TO ESTABLISH A 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.

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 15, 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 and 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.

06-418335

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 fundamental provisions of this Agreement contained in Articles I, II and III, and Section 501, 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 will 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

[MPSC: (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].]

[MPSC: (c) Consent by the United States or the Northern Mariana Islands will be given in a manner to be determined by their respective Constitutions 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.]

NOTE: MPSC position is that Sections 503, 702, 805, and 806 should be added to the mutual consent list.

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 15, 1974

ARTICLE II

Constitution of the Northern Mariana Islands

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

Section 202. The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Agreement and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. [MPSC: The Constitution will be deemed to have been approved 60 days after its receipt by the President unless earlier disapproved. The same procedure will be repeated if necessary.] 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 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 and 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. The Constitution of the Northern Mariana Islands may provide for a distribution of the legislature's membership on the basis of appropriate considerations in addition to population, notwithstanding other provisions of this Agreement or the provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands, 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.

Article II, p. 3

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.

NOTE: MPSC bracketed matter in Section 202 is an alternative to MPSC proposed Section 1002, infra.

October 23, 1974

ARTICLE III

Citizenship and Nationality

Section 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision 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, will 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 later determination.

November 15, 1974

ARTICLE IV

Judicial Authority

Section 401. 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.

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 or 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. 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 the purposes of determining the requirements of indictment by grand jury or trial by jury.

(c) The District Court will have such appellate jurisdiction as the legislature may provide. When it sits as an 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 Constitution or laws of 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 proceeding, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands, the United Court of Appeals for the judicial circuit which includes

the Northern Mariana Islands will 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, treaties or laws of the United States, or any authority exercised thereunder, unless those decisions are reviewable in the District Court for the Northern Mariana Islands pursuant to Section 402(c).

(b) Those portions of title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 15, 1974

ARTICLE V.

Applicability of Laws

Section 501. 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 and ~~Section 2~~, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15, Amendment 19; and Amendment 26. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within 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 Government of the United States.

Section 502. The following laws of the United States in existence on the effective date of this Section, and subsequent amendments to such laws, will apply to the Northern Mariana Islands as follows, except as otherwise provided in

(a) those laws which provide federal services and financial assistance programs, Titles I, X, XIV and XVI of the Social Security Act, and the federal banking laws will apply as they apply to Guam; the Public Health Services Act will apply as it applies to the Virgin Islands; and the Micronesian Claims Act will apply as it applies to the Trust Territory of the Pacific Islands;

(b) those laws not described in Subsection (a) which have provisions making them applicable to Guam and which are of general application to the several States will apply as they are applicable to the several States;

(c) those laws not described in Subsections (a) or (b) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, will apply to the Northern Mariana Islands as they apply to the Trust Territory until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

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 by law after termination of the Trusteeship Agreement:

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

(2) the coastwise laws of the United States, and any prohibition in the laws of the United States against

(3) the minimum wage provisions of the Fair Labor Standards Act, as amended.

(b) Nothing in this Section shall be deemed to prevent the application to the Northern Mariana Islands of laws of the United States to the extent that they affect United States Government shipments or impose minimum wage requirements with respect to employees or contractors of the United States Government.

Section 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws 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 laws 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 laws of the United States 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 law on local conditions within the Northern Mariana Islands, the 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 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 cost of the work of the Commission.

Section 505. 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, treaties or laws of the United States 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 506. (a) At such time as the naturalization laws of the United States are made applicable to the Commonwealth of the Northern Mariana Islands they will 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, will 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 will become citizens of the United States at birth (and will 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 become 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 will 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 will have jurisdiction to naturalize persons as citizens of the United States in accordance with applicable law.]

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 15, 1974

ARTICLE VI

Revenue and Taxation Provisions

Section 601.

The income tax laws in force in the United States and those which may hereafter be enacted will 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."

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.]

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 will 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..

The administration and enforcement of the Northern Mariana Islands Territorial Income Tax will be performed by or under the supervision of the Governor of the Northern Mariana Islands. The Governor or his delegate will 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. [US version not drafted] [MPSC: (a) The United States Internal Revenue Code of 1954 will 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 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 will be exempt from United States federal income tax and income derived from sources within the United States will be subject to such tax under Section 1 of the Internal Revenue Code;

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

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

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

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, levy duties on goods imported into its territory from any area outside the customs territory of the United States, and impose duties on exports from its territory.

(c) Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

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

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.

(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.

Section 605. [(a) Not later than at the time this Agreement is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be paid over to the Social Security Administration of the United States, to be held as a separate fund to be known as the "Northern Mariana Islands Social Security Retirement Fund," and to be administered in accordance with the laws of the Northern Mariana Islands. The United States will supplement such Fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund.]

[(b) Those laws of the United States which impose taxes to support, or which provide benefits from, the United States Old Age, Survivors, Disability and Health Insurance Trust Funds will not be applicable to the Northern Mariana Islands until termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States.]

[(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

[(1) the Northern Mariana Islands Social Security Retirement Fund will be disbursed as appropriate into the United States Old Age, Survivors, Disability and Health Insurance Trust Funds;] and

[(2) contributions to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the United States, Old Age, Survivors, Disability and Health Insurance Trust Funds for the purpose of determining eligibility of persons in the Northern Mariana Islands for benefits from such Funds.]

Section 60[6]. (a) All bonds issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

(b) During the initial seven year period of financial assistance provided for in Section 702, and during subsequent periods of financial assistance as may be agreed, 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.

NOTE: Brackets have been placed on Section 603(e) because the Section may not be needed. Brackets have been placed on Section 605 because it is subject to further technical review. There is no difference between the parties with respect to the substance of either Section.

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:

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

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

(c) \$1.5 million for an economic loan fund, of which \$500,000 shall be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives.

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

(e) Funds provided under not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year shall remain available for obligation or expenditure by the Government in subsequent fiscal years for the purpose for which the funds were appropriated. MFSC: Funds provided under Subsection (a)

of this Section will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

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

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

(f) Upon expiration of the authorization [MPSC: and appropriation] provided in _____ the annual level of payments in each category listed in Sub-section ~~(a)~~ _____ will continue until Congress authorizes and appropriates a different amount.

There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be

expended to the benefit of the people thereof as the Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, 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.

November 15, 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 [MPSC: make available to the Northern Mariana Islands the full range of federal services and programs available to the territories of the United States, and 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:

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

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

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

(b) [US: The United States will also make available to the Northern Mariana Islands the full range of Federal services and programs available to the territories of the United States.] Funds provided under Subsection (a) of this Section will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

(c) Funds provided under Subsection (a) of this Section not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year shall remain available for obligation or expenditure by the Government in subsequent fiscal years for the purpose for which the funds were appropriated.

(d) Approval of this Agreement by the United States, will constitute an authorization for [MPSC: and appropriation of] a pro-rata share of the funds provided under Subsection (a) of this Section for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

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

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

Section 703. There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as the Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, 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.

NOTES: The last sentence of Section 701 has been placed in brackets because it may not be needed depending on the wording of the remainder of that Section. Section 704 has been placed in brackets because it may not be needed depending on the resolution of substantive issues raised by Section 702.

[(c) The Government of the Northern Mariana Islands will take the right, title, and interest which will be conveyed to it under this Section subject to the valid claims or rights or interests of others respecting such real and personal property.]

Section 802. (a) The following property will be made available to the United States [MPSC: by lease] in accordance with this Agreement to enable it to carry out its defense responsibilities.

(1) on Tinian Island, approximately 17,808 acres (___ hectares) and the water immediately adjacent thereto;

(2) on Saipan Island, approximately 48 acres (___ hectares) adjacent to Isley Field, and approximately ~~133~~ acres (___ hectares) at Tanapag Harbor;

(3) on Farallon de Medinilla Island, approximately ~~229~~ acres (___ hectares) encompassing the entire island, and the water immediately adjacent thereto.

(b) The United States by its approval of this Agreement will affirm that it has no present need for or present intention to acquire any additional property, or any greater interest in property than that which is granted to it in accordance with this Agreement, in order to carry out its defense responsibilities.

Section 803. [US version not drafted] [MPSC:

(a) The Government of the Northern Mariana Islands will cause the lease for the property described in Section 802 to be executed. The terms of the lease will conform to the provisions of this Agreement, will implement the recommendations of the Joint Land Negotiating Committee established by the Mariana Political Status Commission and the Personal Representative of the President of the United States, and will not contain limitations on the use of the property leased which conflict with the basic responsibilities and authorities of the United States under this Agreement.]

[(b) The terms of the lease for the property described in Section 802 will include, but need not be limited to the following:

[(1) the property will be made available to the United States for an initial term of 50 years and the United States will have one option to renew the lease for all or part of such property for an additional 50-year period;

[(2) the United States will reimburse the Government of the Northern Mariana Islands for the actual reasonable cost of obtaining title to the land described in Section 802 and the actual reasonable cost of removing any and all encumbrances with respect to such land which would be inconsistent with the lease to the United States for defense purposes;

[(3) the United States will obtain the interest in the property described in Section 802 under the lease upon payment by the United States of the sum determined by paragraph (4) hereof, provided that if the United States does not make such a payment within five years after the approval of this Agreement the lease will be null and void and of no further force and effect; and provided further, that each year or portion thereof following the expiration of the first year after the approval of this Agreement, until the expiration of five years after such approval, or until the payment by the United States of the sum determined by paragraph (4) hereof, whichever occurs first, the United States will pay to the Government of the Northern Mariana Islands a sum which bears the same ratio to [ten] percent of the amount determined by paragraph (4) as the number of acres owned or held by the Government of the Northern Mariana Islands within the area described in Section 802 (excluding, prior to the termination of the Trusteeship Agreement, land subject to a Use and Occupancy Agreement) bears to the total acreage therein, in recognition of the inability of the people of the Northern Mariana Islands to make full use of such land because it may have to be made available to the United States;

[(4) the United States will pay to the Government of the Northern Mariana Islands \$_____ million for the interests granted to the United States in the property described in Section 802, provided that this sum will be adjusted for each fiscal year until it is paid, by a percentage which is the same as the percentage change in the Guam Consumer Price Index using 1975 as the base year;

[(5) if the United States exercises its option to renew the lease for an additional 50-year period it will pay to the Government of the Northern Mariana Islands just compensation for the interests in property it obtains through the exercise of the option, but nothing will prevent the United States from the continued use and occupancy of the property with respect to which it exercises its option until just compensation is determined by negotiations between the Government of the United States and the Government of the Northern Mariana Islands, or by the District Court for the Northern Mariana Islands in accordance with applicable rules for determining just compensation in eminent domain cases;

[(6) upon failure by the United States during a period of five years to make substantial and frequent use of the property, or of any significant portion thereof, for the purpose for which the property has been made available,

the interests of the United States in such property granted pursuant to the lease will be terminated, provided however, that the United States will be permitted to remove therefrom such property as it is permitted to remove pursuant to applicable law;

[(7) consistent with the intended use by the United States, the people of the Northern Mariana Islands will have maximum use of and accessibility to the property (including beaches, waters and other natural resources) leased to the United States, and such use and access will be on a basis no less favorable than that of the military personnel and their dependents for non-defense purposes;

[(8) there will be joint civilian and military use of the air field to be constructed on the Island of Tinian, and of the harbor at San Jose Village on the Island of Tinian, and appropriate civilian authorities will become responsible for the harbor no later than the termination of the Trusteeship Agreement;

[(9) in the course of planning and building infrastructure and facilities on or relating to the property leased to it, the United States will, to the maximum extent practicable, work jointly with the Northern Mariana Islands, and will promote the development of the local community through the appropriate joint use and development of power, water and similar facilities;

[(10) the United States will lease to the Government of the Northern Mariana Islands for a fee for the maximum practicable period of time the maximum practicable amount of property for agricultural and other appropriate purposes which are consistent with the intended use of the property by the United States;

[(11) in utilizing the property to be made available to it, the United States will act in a manner which accords full respect to the environment of the Northern Mariana Islands and to the safety of the people and property therein;

[(12) the United States will to the maximum extent practicable utilize and cause its contractor and employees to utilize the resources and services of the people of the Northern Mariana Islands in construction and supply activity relating to the property leased to the United States as if the Northern Mariana Islands were part of the United States, and the United States will provide technical and financial assistance to the people of the Northern Mariana Islands in accordance with applicable law to assure their participation in economic activity relating to the use of such property by the United States;

[(13) there will be established a Committee on Civilian-Military Affairs to which a grievance relating to the presence of the military will be referred

terminated upon or before the effective date of the lease for the property described in Section 802.]

-(c) The Government of the United States and the Government of the Northern Mariana Islands will negotiate in good faith concerning the terms and conditions under which real property located in the Northern Mariana Islands needed for active use by the United States for civilian governmental purposes will be made available, and concerning the terms and conditions of the joint use of Isely Field on Saipan; provided, however, that the United States will continue to have the use of such real property and the joint use of Isely Field under the terms and conditions in effect upon the approval of this Agreement until but not after such negotiations are completed or the Trusteeship is terminated, whichever first occurs.]

Section 805. Except as otherwise provided in this Article, and notwithstanding the provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect against exploitation and to promote economic advancement and self-sufficiency, [US: will] [MPSC: May; or: will be empowered to] regulate the alienation of

interests in real property, other than short term interests,
so as to restrict the acquisition of such interests to
persons of Northern Mariana Island descent [US:, and will
regulate the extent to which land now classified as public
land can be held by individuals].

[US: Section ~~807~~. ~~(a)~~ Except as provided in Subsection ~~(b)~~ of this Section the United States will not seek any interest in real property unless the Congress of the United States has both authorized the proposed project and provided funds therefor. Any interest in real property acquired pursuant to such Congressional action will be by voluntary means where possible. The power of eminent domain will be exercised within the Commonwealth only when voluntary means fail, only to the extent necessary, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and with full recognition of the due process procedures required by the United States Constitution.]

[(b)] The minor land acquisition authority of Title 10, United States Code, may be exercised within the Commonwealth to the same extent it is available within any State of the Union.]

~~IMDCC~~: Section 806. (a) The United States will recognize and will respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred

to it under this Agreement, it will be careful and reasonable selection, seek to acquire only the minimum area necessary to accomplish the public purpose for which the real property is sought; seek only that minimum interest in the real property necessary to support such public interest, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained; and seek first to satisfy the requirement by acquiring an interest in public rather than private real property.

(b) The United States may, upon prior written notice to the Government of the ~~Commonwealth~~, acquire for public purposes in accordance with established federal laws and procedures any interest in real property in the Commonwealth, whether owned or controlled by private parties or by the Government of the ~~Commonwealth~~ by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States Government will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain under Subsection (c).

[(c) (1) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it will have and may exercise within the Commonwealth the power of eminent domain

to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union; provided however, that the United States will not exercise the power of eminent domain to acquire any interest in real property within the Commonwealth until the Congress of the United States has by law explicitly approved the exercise of the power of eminent domain to obtain a particular interest in particular real property in the Commonwealth.

[(2) Notwithstanding the provisions of Subsection (c)(1) of this Section, upon a determination by the President that an interest in real property in the Commonwealth is needed for national defense purposes, the United States may take such an interest by eminent domain to the same extent and in the same manner as it can take such an interest by eminent domain in a State of the Union. No interest in real property taken pursuant to the preceding sentence will extend beyond nine months, and at the end of such period, the interest will revert to the original owner thereof, unless the United States shall have obtained an interest in such real property in accordance with Subsections (b) or (c)(1). The authority of the United States under the first sentence of this Subsection (c)(2) will not be exercised with respect to any particular real property unless six months

or more have elapsed since the most recent exercise of this authority with respect to such real property.]

JOINT DRAFTING COMMITTEE WORKING DRAFT

November 15, 1974

ARTICLE IX

[MPSC: Delegate] [US: Resident Commissioner] and Cons

Section 901. [MPSC: (a) At such time as the population of the Northern Mariana Islands exceeds 50,000 persons, or sooner as determined by the House of Representatives of 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. The provisions of law applicable to the Delegate from the Northern Mariana Islands apply in like manner to the Delegate from the Northern Mariana Islands, except that Section 3(b) of Public Law 93-502, as amended, shall not apply until the election of the Delegate in the seventh year after termination of the Trusteeship Agreement.

rnor

06:413331

[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. The Government of the United States 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, to meet at least one year prior to the expiration of every period of such financial assistance.

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

Section 904. (a) The Government of the United States will give sympathetic consideration to the advice of the Government of the Mariana Islands on international matters directly affecting the Northern Mariana Islands.

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

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

November 15, 1974

ARTICLE X

Approval, Effective Dates,
and Definitions

Section 1001. (a) This Agreement will be submitted to the Mariana Islands District Legislature for its approval. 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 a majority of the valid votes cast in the plebiscite. The results of the plebiscite will be certified 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: This Agreement will be approved by the United States and become law in accordance with its constitutional processes].

[MPSC: Section 1002. (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.]

[(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 Constitution, treaties or laws of the United States 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 procedures provided for in this Section will be repeated as necessary until the Constitution is approved by the people of the Northern Mariana Islands and by the United States.]

Section 100[3.] The provisions of this Agreement will become effective as follows, unless otherwise specifically provided:

(a) Sections 105, 201-203, 503 504, 605, and Article X will become effective on approval of this Agreement;

(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601, 603, 604, 606, Article VII, and 901-903 will become effective on a date to be determined and proclaimed by the President of the United States which than 180 days after this Agreement and the Constitution of the Northern Mariana Islands have both been approved; and

(c) The remainder of this Agreement will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

Section 100[4]. (a) The application of any provision of the Constitution or laws of the United States 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 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 [5]. [MPSC: At such time as the President of the United States determines that the Trusteeship Agreement has been terminated or will be terminated on a day certain, he will issue a proclamation announcing his determination, and upon termination of the Trusteeship Agreement the Commonwealth of the Northern Mariana Islands will be established.] [US: The President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement, or the date on which the Trusteeship Agreement will terminate, and

the establishment of the Commonwealth

Any determination by the President that the Trusteeship Agreement has been terminated or will be terminated on a day certain 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.

[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.]

Section 100[6]. 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 into 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 Puerto Rico, the Virgin Islands, Guam, American Samoa and the Panama Canal Zone.

[MPSC: Section 100[7]. 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.]

JOINT DRAFTING COMMITTEE WORKING DRAFT

October 24, 1974

SIGNATURES

Signed at Saipan, Mariana Islands on the day
of , 197 .

FOR THE PEOPLE OF THE NORTHERN
MARIANA ISLANDS

FOR THE UNITED STATES
OF AMERICA

Chairman, Marianas Political
Status Commission

Personal Representative
of the President of the
United States

Co-Chairman, Marianas Political
Status Commission

Member, Marianas Political
Status Commission

[ETC.]