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MEMORANDUM FOR THE MARIANAS POLITICAL STATUS COMMISSION

SUBJECT: DRAFT STATUS AGREEMENT

This memorandum attempts to summarize the results of the Commission's review during the past week of the draft status agreement prepared by the Joint Drafting Committee. As the Commission requested, it provides a short statement regarding each of the provisions to which the commission has assigned a high priority.

High Priority Items

There are eight provisions in this category. Although compromises in some of them may be possible, these are the items which the members of the Commission should stress in discussions with members of the U. S. Delegation. In each instance, I have identified the pages in the explanatory memorandum where the subject is discussed in more detail.

1. Section 105(a): U. S. Legislative Authority (pp. 10-11)

The Commission's version of Section 105(a) permits Congress to enact legislation for the Marianas which it could

not make applicable to a state. However, Congress could not do so unless the 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 Northern Mariana Islands." From the beginning of these negotiations, the Commission has expressed its concern about the power of Congress to enact laws on local matters in the Marianas. Our present position is the same as that presented at the last session; it represents a substantial compromise by the Commission. All the Commission is trying to do is to ensure that Congress would have to act purposefully and in accordance with a compelling national interest in order to make applicable to the Marianas legislation which it could not make applicable to a state. The United States maintains that our concerns are not real ones. If the U. S. view is accurate, why should Congress object to our proposed provision? If the U. S. is prepared to respect the right of the Marianas to govern themselves on local matters, the proposal which the Commission supports will help to make this a more meaningful commitment by the U. S. without any real limitation on the powers of Congress to act if the national interest requires it to do so.

2. Section 202: Approval by the U. S. of the Constitution of the Northern Mariana Islands (pp. 14-17)

The Commission's proposal here is designed at dealing with a very practical problem. After the Marianas constitution is approved by the people, it cannot go into effect until it is also approved by the United States. All we are trying to do is to ensure that the U. S. acts within a reasonable period of time. If the U. S. does not act to approve our constitution, then the people of the Marianas will be denied the benefits of self-government which the new status is designed to provide. Many of the most important provisions of the status agreement do not become effective until the constitution is approved and the new government comes into being. (Incidentally the U. S. does not get its rights to land under Section 802 until the Marianas Constitution is approved.) The Commission is willing to let the U. S. approve the constitution in any way it wants to--i.e., by the President or by Congress. But we do believe that the U. S. must act within a fixed period of time. We have proposed 60 days, which we think is sufficient, but we might be ready to consider a longer period--perhaps 90 or 120 days--if the U. S. recognizes the need to have some such definite limit.

3. Section 702: Appropriation of Funds for Phase II (pp.27-28)

The Commission's version of Section 702 provides that approval of the status agreement constitutes an appropriation of the funds for Phase II as well as an authorization of the

funds. The United States is opposed to this position because of opposition in the U. S. Congress to a multi-year appropriation. From the beginning of the negotiations, the Commission has emphasized the need for guaranteed financial assistance over a multi-year period. We have stressed the importance of this for long term planning and in order to avoid annual trips to Washington for appearances before Congressional committees. If the U. S. does not accept our position, the Commission will have no guarantee that Congress will in fact provide Phase II funds in each of the seven years. It would mean that Congressional committees would review each year how the Marianas spent its money in the prior year and then decide how much to appropriate for the next year. The Commission believes that this procedure is not consistent with the principle of Marianas local self-government which is reflected in the draft status agreement.

4. Section 802(a): Lease (not sale) of Land for Military Purposes

This is a familiar subject. When addressing this issue, it might be useful for the Commission members to stress the political sensitivity attached to this issue. We have previously advised the U. S. Delegation that the people of the Marianas will never approve the status agreement if it involves the sale of land for military purposes. The Commission's position of a 50 year lease, with an option to renew for another 50 years, is an entirely reasonable one. It fully protects the security needs of the United States--and yet recognizes the symbolic

importance of land in the Marianas.

5. Section 803: Price of Land

The Commission's position here was contained in the counter-offer which was made available to the U. S. Delegation last week. Based upon past experience, the U. S. representatives will probably tell us that the \$32.9 million figure is way too high, that the Commission's land consultant was misguided, incompetent, or both, and that the United States will never budge from its \$11 million offer. In response, the Commission members might make the following points. First, there can be no status agreement unless the people are persuaded that the price paid by the U. S. is a fair price. Second, the Commission's figure is low in view of the estimated \$300 - \$400 million cost of the Tinian base. Third, the Commission's consultant has very distinguished credentials in the field of land valuation. Fourth, the Commission members on the Joint Land Negotiating Committee were not at all impressed with the U. S. land "expert". Fifth, the Commission has received a detailed report from its consultant but no real analysis of land value from the U. S. Sixth, the Commission is prepared, if need be, to place the entire question before an impartial panel of experts--is the U. S. Delegation ready to do the same?

6. Section 803: Other Land Terms (pp. 30-32)

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This general item covers several important topics related to the proposed base on Tinian. It includes matters discussed in the Joint Land Negotiating Committee such as civilian control and use of San Jose Harbor, the new civilian air terminal on Tinian, acceptable arrangements for utilities on Tinian, leasebacks and similar issues. As to these matters, the Commission members can usefully make these general points. First, finding acceptable solutions in these areas is essential to any status agreement. Second, the Commission supports the positions taken by its members on the Joint Land Committee on these topics. Third, the Commission believes that more reasonable (and generous) U. S. positions on these subjects will help ensure good military/civilian relations on Tinian in the future.

7. Section 806: Eminent Domain (pp. 35-39)

The Commission's proposal on eminent domain represents a very substantial compromise from earlier Commission papers. Basically, the Commission's draft Section 806 gives the United States what it wants--the power of eminent domain which it has in all the other territories and in the 50 states. The Commission asks only for a single safeguard to protect its land--the approval of Congress for each exercise of eminent domain in the Marianas except in case of a national emergency. The Commission members can properly inquire of the U. S. Delegation why this is not an acceptable compromise. It seems likely that almost all of the future land needs of the United States in the

Marianas--for civil governmental purposes--will be satisfied on a voluntary basis by the Government of the Northern Marianas. If some dispute arises, it seems appropriate to require that the U. S. Agency that wants the land go to Congress and explain why a particular parcel of land in the Marianas is required for a particular governmental purpose.

8. Section 901: Washington Representation (pp. 39-40)

All the Commission is seeking here is equality of treatment with Guam and the Virgin Islands. Both of these territories got non-voting delegates when their populations reached about 50,000 persons. Section 901(a) would guarantee similar treatment for the Northern Marianas. The Commission members can emphasize the importance of Washington representation and the fact that the people are well aware of Guam's non-voting delegate. It might also be pointed out that "taxation without representation" was one of the causes of the American Revolution 200 years ago.

Other Items

In addition to these eight provisions, there are many others where differences between the parties are reflected in the draft status agreement. Some of these differences are quite important, but the Commission has tentatively decided to offer a

compromise at the proper time in the negotiations. The following list of differences is provided for your convenience:

1. Title of Document
2. Section 105(b) - Mutual Consent List
3. Section 504 - Commission on Federal Laws
4. Section 506 - Naturalization of Close Relatives
5. Section 601 - Income Tax
6. Section 701 - Standard of Living in Marianas
7. Section 805 - Land Alienation
8. Section 904 - Participation in International Org.
9. Section 1001 - Plebiscite Qualifications
10. Section 1003 - Termination of Trusteeship
11. Section 1007 - Separate Administration

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