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SUMMARY REPORT
REGARDING
UNITED STATES - MARIANAS STATUS NEGOTIATIONS

On December 19, 1973, the Marianas Political Status Commission and the United States Delegation concluded the third session of negotiations aimed at achieving political union between the present Mariana Islands District of the Trust Territory of the Pacific Islands and the United States after termination of the United Nations Trusteeship Agreement under which the United States presently administers the Trust Territory. Representatives of both delegations have expressed optimism that the negotiations will culminate with the signing of a formal Status Agreement before the end of 1974. Before it becomes effective, such a Status Agreement will have to be approved by the Marianas District Legislature, by the people of the Marianas in a plebiscite, and by the United States Congress. The tentative agreements which have been reached up to this point by the parties have been set forth in two joint communiques, dated June 4 and December 19, 1973.

This report will summarize the history of the negotiations, the general outlines of the proposed new status for the Marianas and the unresolved questions which remain to be considered by the delegations in future negotiations.

I. HISTORY OF THE NEGOTIATIONS

A. The Marianas and The Trust Territory of the Pacific Islands: The Marianas are an island chain located in the Western Pacific, a few hundred miles north of Guam. The population of the Marianas is roughly 14,000, almost all of whom are located on one of the three main islands of Saipan, Tinian and Rota. About three-fourths of the Marianas people are Chamorros, descendants of the original population. The Marianas make up one of six districts of the Trust Territory of the Pacific Islands, also known as Micronesia. The Trust Territory was created by the United Nations following World War II. It ranges across thousands of miles of ocean and includes people of markedly different cultural and ethnic heritage. The United States is the Administering Authority of the Trust Territory pursuant to a Trusteeship Agreement with the United Nations.

B. Political Status Negotiations: The Trusteeship Agreement requires the United States to

"promote the development of the inhabitants of the Trust Territory toward self-government or independence, as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned."

In fulfillment of this obligation, the United States during the past several years has explored future political status alternatives for the Trust Territory. On August 21, 1967, President Johnson sent a message to Congress proposing to create a Presidential Commission on the Status of the Trust Territory as a "step toward self-determination" for the people of Micronesia. In September, 1969, the United States opened talks with a delegation from the Congress of Micronesia, including representatives from the Marianas, to explore future political status alternatives for the entire Trust Territory. Early in the negotiations, the Micronesian delegation, now called the Joint Committee on Future Status, insisted on exploring a compact of free association between the United States and Micronesia. As contemplated by the parties, a relationship of free association (unprecedented in American history) would essentially leave Micronesia as an independent and sovereign nation which would delegate to the United States certain important powers, specifically in the areas of national defense and foreign affairs. In April 1972 it became clear that the Joint Committee insisted that the right of unilateral termination of its relationship with the United States was an indispensable aspect of the free association relationship which it desired. This position, however, was contrary to the wishes of the overwhelming majority of the people of the Marianas. In light of the developments in the talks with the Joint Committee, the Marianas representatives to the Joint Committee renewed their request for separate discussions with the United States. The United States agreed to the Marianas request. In May 1972, the Marianas District Legislature created the Marianas Political Status Commission, a group broadly representative of various ethnic, political, economic, and social interest in the islands. The Marianas Commission was directed to study political status alternatives for the Marianas and to conduct negotiations looking toward a close and enduring political relationship with the United States following termination of the Trusteeship. In December 1972, an opening session of the U.S.-Marianas status talks was convened in Saipan. This session was largely ceremonial. Substantive sessions of negotiations were held in Saipan in May-June 1973, and in December 1973. The tentative agreements of the parties are reflected in the Joint Communiqués issued at the conclusion of each session, and are summarized in this report.

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II. POLITICAL AND LEGAL NATURE OF THE RELATIONSHIP

A. Commonwealth: The future political relationship between the Marianas and the United States will take the form of a Commonwealth, the exact nature of which will be defined by the formal Status Agreement. It is recognized that approval of the Status Agreement by the people of the Marianas will constitute a sovereign act of self-determination and thereby fulfill the obligations of the United States under the Trusteeship Agreement. Under the new status, it is agreed, sovereignty over the Marianas will be vested in the United States, but the future Marianas government will exercise a maximum amount of self-government.

B. Foreign Affairs and Defense: Under the proposed status, the United States will have responsibility for and complete authority in the fields of defense and foreign affairs. In this regard, the advice of the future Commonwealth government on international matters directly affecting the islands will be considered by the United States Government. The United States will also support the membership of the Marianas in regional or other international organizations concerned with economic, cultural or comparable matters of concern to the Marianas. The Marianas will also be able to establish offices abroad to promote local tourism or other economic or cultural interests.

C. Limitations on Federal Authority: Fundamental provisions of the Status Agreement, including those provisions designed to assure maximum self-government, may not be amended except by mutual consent of the parties. To this extent United States authority in the Marianas will not be plenary. The parties have delegated to a joint working group the assignment of drafting those provisions of the Status Agreement most directly related to self-government.

D. Citizenship and Nationality: With certain exceptions, persons born in the Marianas prior to the establishment of the Commonwealth, and certain classes of persons residing but not born in the Marianas, will have the opportunity to become United States citizens under the new status. Any such persons not wishing to be a United States citizen would have the right to become a "national but not a citizen" of the United States by making a declaration to that effect in court. Persons born in the Marianas after the establishment of the Commonwealth will become citizens of the United States at birth. The parties are continuing to explore questions relating to the rights of nationals and aliens residing in the Marianas after the establishment of the Commonwealth to become naturalized citizens of the United States.

E. Representation in United States Congress: The Marianas' representatives have requested that the new Commonwealth government be entitled to have a non-voting delegate in the United States Congress, similar to the non-voting delegates in Congress representing Guam and the Virgin Islands. Recognizing that the question of Marianas representation in the United States Congress is ultimately a matter for decision by that body, the United States Delegation has agreed to support the request by the Marianas for a non-voting delegate.

F. Applicability of United States Constitution: The parties are agreed that certain provisions of the U.S. Constitution should be made expressly applicable in the Marianas. It has been agreed, for example, that Article IV, Section 2, Clause 1 of the U.S. Constitution relating to "privileges and immunities" will apply in the Marianas, subject to appropriate limitation in the formal Status Agreement to ensure that the ability of the future Marianas Government to preserve control of the land of the Marianas in the hands of its citizens will not be compromised. Citizens of the Marianas will be entitled to all privileges and immunities of citizens in the several States. Article IV, Section 1, of the U.S. Constitution relating to "good faith and credit" would apply with respect to the Marianas as if it were a State. On the other hand, the requirements in the U.S. Constitution of indictment by Grand Jury and of a jury trial in civil cases need not be made applicable in the Marianas. The parties are currently studying other provisions of the U.S. Constitution, which should be explicitly considered in the Status Agreement.

G. Local Constitution: The future Commonwealth of the Marianas will be governed under the provisions of its own Constitution, to be drafted by a Marianas Constitutional Convention and approved by the people of the Marianas. The Constitution will include a Bill of Rights and provide for the separation of powers and a popularly elected Chief Executive. After approval by the Marianas people, the Constitution will be subject to approval by the United States for consistency with the United States Constitution, the Status Agreement and any relevant Federal legislation. Amendments to the Marianas Constitution would not require approval by the United States, although Federal courts would be competent to pass on the consistency of such amendments with relevant provisions of the United States Constitution, of Federal laws and of the Status Agreement.

H. Courts: The new Commonwealth will have the right to establish local courts to handle cases under local law. The operation of any such courts must be compatible with the United States Federal court system and consistent with

applicable Federal law. A United States District Court will be established in the Marianas with at least the same jurisdiction as such District Courts have in a State.

I. Income Tax Laws: The future Commonwealth of the Marianas will have exclusive power to enact, amend or repeal its local internal revenue laws. The parties recognize that the people of the Marianas will be required to assume an increasing local tax burden, consistent with their stage of economic development, as part of their effort to achieve economic self-sufficiency and as a predicate to direct financial assistance from the United States. The parties have also agreed that the Marianas will be generally treated as a possession within the meaning of the various provisions of the Internal Revenue Code dealing with possessions. Thus, under the provisions of Section 932 of the Code, persons who reside in the Marianas and who become United States citizens or nationals pursuant to the Status Agreement will be subject to United States income tax only on United States source income. It has also been agreed that under Section 931 of the Code, other United States citizens and United States corporations doing business in the Marianas would not be subject to United States federal income tax on income earned in the Marianas if they meet the specific requirements of that Section.

J. Customs Duties and Excise Taxes: Under the proposed status the Marianas will not be included in the customs territory of the United States. The Commonwealth of the Marianas will have the authority to establish a "duty-free" port and to enact local customs laws relating to imports from foreign countries, provided that this authority is exercised in a manner consistent with the international obligations of the United States. Exports from the Marianas entering the customs territory of the United States will be free of any import duty subject to the same conditions now applicable to Guam. The United States will seek to obtain from foreign countries favorable treatment of exports from the Marianas. The Commonwealth of the Marianas will have the authority to impose duties on exports from its territory and to impose excise taxes on the manufacture or sale of goods.

K. Applicability of Other United States Laws: The parties have agreed that certain other major areas of Federal legislation will be reviewed during the negotiations in order to decide whether such legislation should be dealt with explicitly in the formal Status Agreement. The areas under study by the Marianas Political Status Commission include United States laws relating to immigration, social security, labor standards and shipping. It has also been agreed that the

parties will explore a general formula to govern the interim applicability of other existing Federal laws in the future Commonwealth. At an appropriate time after the Status Agreement is signed, the parties have agreed that a Joint Commission on Federal Laws will undertake a detailed study of relevant Federal legislation and will make specific recommendations to the U.S. Congress regarding the future applicability of such laws in the Marianas.

L. Unresolved Questions: As indicated above, the parties have identified some questions which require further study and negotiation. In addition to these specific items, the parties have agreed to discuss whether the Status Agreement should provide for formal periodic review of all aspects of the relationship between the Marianas and the United States. It is also anticipated the parties will begin to give detailed consideration during the next session of negotiations to the actual language of a proposed Status Agreement. This will be the basic legal document incorporating the agreements reached between the parties in terms which are mutually acceptable. It will include, of course, not only provisions relating to the legal and political nature of the new relationship between the Marianas and the United States but also provisions dealing with the other subjects which have been discussed during the negotiations and are reviewed in this report.

III. LAND AND MILITARY REQUIREMENTS

A. Return of Public Lands: In a Policy Statement dated November 2, 1973, the United States announced the procedures and terms under which the public lands in the Marianas and elsewhere in Micronesia now administered by the United States would be returned to the people of the Marianas. Responsibility for implementing this policy is assigned to the Marianas District Legislature, the Trust Territory Administration and the U.S. Department of the Interior. The Marianas Political Status Commission has indicated its intention to recommend the establishment of a non-profit corporation controlled by the people of the Marianas to receive and administer these public lands. This corporation would be responsible for making the necessary public lands available to the United States for military and other public purposes under the terms of the final Status Agreement.

B. Land for Defense Purposes: The Marianas Political Status Commission has agreed to make land available to the United States for defense purposes. Important issues regard the extent of such land and the terms under which it is to be made available are still to be negotiated. The

Commission has proposed that the United States land requirements can be met through a combination of long-term leases for 50 years renewable at the end of that period and restrictive covenants made applicable to other areas limiting civilian uses of those areas to uses compatible with future defense needs. The United States has continued to express its preference for purchase of the land areas needed for defense purposes following termination of the Trusteeship. There follows a summary of the issues relating to the specific areas which the United States proposes to use for defense purposes in the Marianas.

1. Tinian Island: The negotiations regarding Tinian have focused on the needs expressed by the United States for a joint-service military base complex at Tinian, including harbor facilities to be used on a joint military-civilian basis, an operational airfield with related facilities and open for civilian use, an ammunition and logistics support facility and a training area. The United States has indicated that this complex requires approximately two-thirds of Tinian (18,000 acres), including the island's only harbor and an adjacent safety zone within which is located Tinian's only town of San Jose. The remaining one-third of Tinian would remain under civilian control and ownership and it is proposed that land owners who must be relocated would receive monetary compensation or title to comparable new land. To the extent that relocation might be necessary, the United States has proposed that new private housing and community facilities, including roads and utilities, would be provided at United States expense. The Marianas Political Status Commission has expressed its willingness to continue negotiations regarding Tinian, but has continued to insist on a long-term lease (rather than purchase) and has requested that the United States provide more detailed justification for the size of its needs on Tinian. The parties have agreed that before the next session of negotiations various technical questions regarding U.S. military requirements would be discussed and a working group would be established to explore questions which might be involved in military-civilian relationships in the Marianas.

2. Farallon de Medinilla: The Commission has agreed to lease this small, uninhabited island for continued use by the United States as a target area, subject to the filing by the United States of an environmental impact statement. The United States has agreed to submit such a statement.

3. Tanapag Harbor, Saipan: The parties are agreed that the United States would be able to use the harbor jointly under civilian control. With respect to the United States request for 320 acres adjacent to the harbor, the Commission has proposed that this land be returned to the Marianas but that appropriate arrangements be entered into to restrict civilian use of the 320 acres so as to be consistent with its possible future military use. During the last session of negotiations the United States revealed its intention to use the bulk of these 320 acres for development as a memorial park in honor of those who sacrificed their lives in World War II.

4. Isley Field, Saipan: The parties are agreed that this airfield will be under civilian control and will continue to be available to U.S. military forces on a joint use basis. The Commission, in response to the U.S. request for the purchase of 500 acres adjacent to Isley Field, has proposed that 250 acres be leased by the United States and that an adjoining 250 acres be subjected to restrictive covenants consistent with the land's possible future military use. The United States is considering this proposal.

IV. ECONOMICS AND FINANCE

A. Economic Objectives: The United States and the Commission have agreed that a long-term economic development program for the Marianas should have the following objectives: (a) to facilitate an orderly transition to the new political status; (b) to build toward an adequate social and economic infrastructure; (c) to provide necessary services and programs; and (d) to encourage and promote the future economic development of the Marianas. The parties are involved in an exchange of views regarding these objectives and the mutually agreed economic goals of a steadily rising standard of living and the progressive movement of the Marianas toward self-sufficiency. Both parties recognize that the domestic tax base in the Marianas will expand as a result of the added financial resources provided through U.S. financial assistance as well as the expected private investment.

B. Direct Financial Assistance from the United States: The United States has agreed to provide financial support to the Marianas over an initial period of years at fixed levels. The United States has proposed the following direct assistance for each of the first five years of the new political status, which would be reviewed before the end of that period to determine future levels of U.S. financial support: (a) \$7.5

million for budgetary support of government operations; (b) \$3 million for capital improvements projects; and (c) \$1 million for a Marianas development loan fund. In addition, an estimated \$3 million would be made available annually to the Marianas in the form of Federal programs and services. Based on its detailed studies, the Marianas Political Status Commission has indicated that a higher level of direct assistance than this total of \$14.5 million would be required during the first five years of the new political status. The parties have agreed to study the question of U.S. financial assistance further before the next session of negotiations.

C. Indirect Financial Assistance from the United States: The Marianas and the United States agree that various forms of financial assistance will be provided indirectly by the United States under the proposed new status. The United States has agreed to cover over to the Commonwealth of the Marianas all customs duties, excise taxes and Federal income tax collected by the United States and derived from the Marianas, as is done for Guam and certain other territories. In addition, the Marianas is expected to receive substantial income from its administration of public lands, including lands made available to the United States for military uses.

V. TRANSITIONAL PLANNING AND PROGRAMS

A. Need: The Marianas and the United States have agreed on the general nature and range of the planning programs and activities which will take place during the transitional period between the signing of the Status Agreement and the installation of the new government. It is recognized that these activities are necessary to enable the new government to assume responsibility for local self-government in an orderly way and to move toward realization of the economic goals of a higher standard of living and ultimate self-sufficiency for the Marianas.

B. Scope: The parties have agreed that the following activities should take place during the transition period: (a) careful advance planning for and implementation of a political education program; (b) a plebiscite on future status; (c) a constitutional convention and referendum; (d) advance planning relating to the organizational structure and initial legislative program of the new government; (e) extensive planning to identify specific economic, social and physical infrastructure needs; (f) studies to develop an appropriate government fiscal and revenue system; and (g) an examination of the economic and social impact on the Marianas of a relocation of the Capital of Micronesia from Saipan.

C. Funding: The United States has agreed to provide funds for these transitional programs and activities. The Marianas Political Status Commission and the United States have established an Ad Hoc Preparatory Committee to prepare a detailed work plan, timetable, organizational structure, and budget for these activities. It is expected that this committee will report back to the two delegations before the next session of negotiations.

CONCLUSION

Although no firm date has been set, the representatives of the Marianas and the United States anticipate that the next session of negotiations will be scheduled for the spring or early summer of 1974. As reflected in this report, many important issues remain to be resolved. These include such matters as the accommodation of U.S. military requirements in the Marianas, the level of future direct financial assistance, and the precise provisions of a formal Status Agreement. The progress made since the start of these negotiations, however, provides a firm basis for optimism that these remaining questions can be resolved through good faith negotiations to the mutual satisfaction of the people of the Marianas and the United States.

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