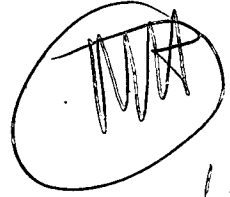


*Manvat delegate
commit*

M. Helfer

AdeGraffenried:1-14-75:kkc

TITLE OF NEGOTIATING HISTORY DOCUMENT
(TO BE DISCUSSED)



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Introduction

(Helfer to do one sentence lead-in)

Section 101. As used in Article I, as elsewhere, the term "Northern Mariana Islands" in a geographic sense refers to the area described in Section 100/67(b).

SOV. IMMUN.

Section 103. The Government of the Northern Mariana Islands will not be an agency or instrumentality of the United States.

Section 104. Specific reference to the powers mentioned in this section ^s [is meant to be illustrative and] is not intended to derogate from the sovereign powers ^{sovereign powers of the US} held by the United States under Section 101.

Section 105. Prior to the termination of the Trusteeship the consent of the Northern Mariana Islands envisaged by this Section will not be given without the consent of the legislature.

Section 202.

This section states the extent of the authority of the United States with respect to the Constitution of the Northern Mariana Islands, except for the power of the President to delay the effectiveness of certain provisions of the local Constitution until termination of the Trusteeship. Thus the United States will not have the power directly or indirectly to alter the Constitution of the Northern Mariana Islands after initial approval, except insofar as parts of the Constitution may be passed on by federal courts in particular cases.

The authority of the federal courts to determine whether or not the Constitution of the Northern Mariana Islands and subsequent

amendments thereto are consistent with the provisions of the Constitution, treaties, and laws of the United States applicable to the Northern Mariana Islands is not intended to be exclusive so as to preempt the power of the courts of the Northern Mariana Islands to make such determinations in appropriate cases.

Section 203(c),

The provision that the legislative powers of the Northern Mariana Islands will extend "to all rightful subjects of legislation" means that the power of the legislature will be limited only by the terms of the Covenant, the provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution of the Northern Mariana Islands. This is the broadest possible formulation of legislative power for the Commonwealth/Helper to provide language re: disproportionate representation in the legislature.

It is also understood that the property and the activities of the United States and of the Trust Territory of the Pacific Islands will be exempt from taxation by the Government of the Northern Mariana Islands and its subdivisions in the same manner and to the same extent as the property and activities of the United States are exempt from taxation by the several States and their subdivisions.

Section 401. The establishment of a separate district court for the Northern Mariana Islands does not preclude the appointment of the District Judge, United States Attorney and United States Marshal for Guam to hold the corresponding offices in the Northern Mariana Islands at the same time. Congress, in its discretion may also provide, (in analogy to Section 27 of the Organic Act of the Virgin Islands, 48 U.S.C. 1617,) that the United States Attorney and the

United States Marshal for the Northern Mariana Islands are authorized or required to perform, at the request of the Government of the Northern Mariana Islands, certain functions related to the execution of the local laws. The Executive Branch of the United States Government will recommend that the Congress enact legislation to accomplish this goal.

Section 402. (Helper to reconsider whether this is necessary).

In view of some ^{question} confusion which seems to have developed under somewhat similar language in the Guam Organic Act, the negotiating parties consider it appropriate to point out with respect to Subsection (c) that the Legislature of the Northern Mariana Islands is under no obligation to grant any appellate jurisdiction to the District Court for the Northern Mariana Islands. The Legislature may choose at any time and from time to time to establish appellate courts of the Northern Mariana Islands and to eliminate the appellate jurisdiction of the District Court.

Section 403. Subsection (b) of this Section is intended to make applicable to the District Court for the Northern Mariana Islands a wide variety of procedural and housekeeping statutes applicable to the District Court of Guam, as well as such statutes as are now applicable with respect to Guam or citizens of Guam ^{as} including 28 USC § 1332 (diversity jurisdiction in district courts of the United States) and 28 USC § 1738 (dealing with full faith and credit).

Section 501. The purpose of this section is to extend to the people of the Northern Mariana Islands the basic rights of United States citizenship and to make applicable to them certain of the constitutional provisions governing the relationship between the federal

government and the States. (It has no bearing on the authority of the United States to legislate with respect to the Northern Mariana Islands which is governed by Article I.) The extension of certain provisions of the Constitution of the United States to the Northern Mariana Islands is without prejudice to the power of Congress to authorize the Northern Mariana Islands (a) to distribute the membership of its legislature on considerations in addition to population (section 203); (b) to authorize exceptions to the requirements of trial by jury or indictment by grand jury (section 501); and (c) to limit the acquisition of permanent and long-term interests in land to persons of Northern Mariana Islands ancestry and to regulate the extent of the holding of formerly public lands (section 805). (Helper to add reference that land alienation provisions may be invalidated only by virtue of extension of its own force of the due process clause to the Northern Mariana Islands).

Section 502. General Comments.

The formula stated in Section 502 is not intended to be the exclusive method by which laws of the United States are or can be made applicable to the Northern Mariana Islands. The Congress will have power consistent with the Agreement to alter the manner and extent to which laws covered by the formula apply to the Northern Mariana Islands, to make laws not covered by the formula applicable or to make laws covered by the formula inapplicable. The formula does not make the Northern Mariana Islands into a territory or possession of the United States prior to termination. In many instances, however, the Northern Mariana Islands will be treated as if it were a territory or possession of the United States prior to termination,

for many laws applicable to Guam because it is a territory or possession will become applicable to the Northern Mariana Islands.

The phrase "applicable to Guam" or "applicable to the Trust Territory of the Pacific Islands" in this Section is used in the sense of "applicable within or with respect to" the geographic areas mentioned or the people who reside in or who are citizens of those geographic areas. It is understood, for example, that laws providing for the extradition of persons from one State or Territory to another State or Territory (see 18 USC § 3182), will be applicable with respect to the Northern Mariana Islands in the same manner and to the same extent as they are applicable with respect to Guam or a State. (Thus a State or another Territory could be obligated to extradite a person to the Northern Mariana Islands, just as the Northern Mariana Islands would be under an obligation in appropriate cases to extradite a person to a State or Territory.) Of course, certain laws which will be made applicable to the Northern Mariana Islands under this Section speak, by their own terms, only to citizens of the United States. Such laws would apply only to citizens of the United States in the Northern Mariana Islands, and would not apply to citizens of the Trust Territory until under the provisions of Article III of the Agreement, such citizens become citizens of the United States upon termination of the Trusteeship Agreement.

Subsection (a). The term "the federal banking laws" in Subsection (a) has particular reference to Sections 13, 25 and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 466, and 601-632, respectively) and Section 5191 of the Revised Statutes (12 U.S.C. 143).

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0 { It is intended that national banks would have authority to operate as is granted to them under the federal statutes to operate in the several states.

Section 503(a). It is understood by the negotiating parties that the immigration laws of the Trust Territory of the Pacific Islands will continue to be applicable to the Northern Mariana Islands under Section 506 after the new Government of the Northern Mariana Islands under the local Constitution comes into existence. It is understood that the laws of the Trust Territory of the Pacific Islands as modified by the Government of the Northern Mariana Islands pursuant to its authority which relate to the subjects addressed in this subsection will continue to be effective after termination of the Trusteeship Agreement, except to the extent that they are modified by federal law after termination.

Section 504. The provision that the United States will bear the cost for the work of the Commission does not mean that the United States will pay the salary of the four Commissioners who are domiciled in the Northern Mariana Islands. (Helper to draft language as guidance for work of Commission).

Section 506. (After INS provides position, Marcuse will provide language).

Section 601(a). The revenue provisions of the Covenant are not designed to render the Federal Unemployment Tax and the benefits derived therefrom applicable to the Northern Mariana Islands. In this regard the treatment of the Northern Mariana Islands will be identical to that of Guam.

✓ Section 603(b). The authority of the Government of the Northern Mariana Islands to impose customs duties will not extend to property brought into the Northern Mariana Islands by the United States or by military personnel of the United States for their own personal or official use.

Section 603(c). The negotiating parties believe that the treatment provided for in this Subsection is consistent with the obligations of the United States under the General Agreement on Tariffs and Trade. This section is not intended to conflict with United States international obligations and does not require that the United States take any action which would be inconsistent with such obligations, should such a conflict arise. The United States will, if necessary, seek appropriate waivers or modifications of its international obligations.

Section 603(d). The term "a developing territory" as used in this subsection is intended to refer to the June 25, 1971 General Agreement on Tariffs and Trade waiver regarding preferential tariff treatment of goods from developing countries and territories, and to other similar benefits which may be available to the Northern Mariana Islands.

Section 702. It was not considered necessary to include Section 702 among the provisions listed in Section 105 which may be modified only by mutual consent. The reason for the omission of Section 702 is of a transitional nature, and will be limited to seven years following the establishment of the new Government. In addition a failure to appropriate funds as required by that section would constitute a dispute under Article IX which could be submitted to the courts pursuant to the provisions of this Article.

Section 802. (Helper to consider deletion of this notation per U.S. desires; review will consider Section 1 § 8 cl. 7 re: U.S. Congress authority over forts and magazines).

Section 804(b). (U.S. to consider deletion in light of fact wording of this Section in the Covenant is that precise language found in U.S. statutes).

Section 805. (Helper to redraft language).

Section 806(a). The use of any property or interest acquired by the United States pursuant to this Subsection will not be limited to the public purposes for which it was originally obtained. (Helper to review regarding necessity of establishing that U.S. will not exercise eminent domain powers prior to end of Trusteeship Agreement and only with regard to the safeguards mentioned in 806(a) after the end of the Trusteeship Agreement.)

Section 1001(a). The voter qualification set forth are the minimum eligibility requirements. Additional standards to insure voter integrity may be established by the United States after appropriate consultation with the Mariana Islands.

Section 1002. It is the present intention of the United States as stated publicly, to terminate the Trusteeship by 1981.

Section 1004: (U.S. to consider the following language:

The effective date of Section 104 and Section 904 of the Agreement has been postponed until the termination of the Trusteeship Agreement because the United States has the authority over international and defense affairs of the Northern Mariana Islands under that Agreement. The delay of the effective date is not intended to imply that the United States does not have this authority prior

prior to termination or that it will not or should not consult with the Government of the Northern Mariana Islands with respect to the exercise of that authority in appropriate situations.)

Other Provisions.

It is the intention of the negotiating parties that the invalidity of one section of the Agreement not affect the validity of other provisions.

FOR THE U.S. DELEGATION

FOR THE MARIANAS POLITICAL
STATUS COMMISSION