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EXPLANATION OF THE COVENANT TO ESTABLISH A COMMON-
WEALTH OF THE NORTHERN MARIANA ISLANDS
IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

This paper explains each Article of "The Covenant to Establish a Commonwealth of the Northern Mariana Islands". The Covenant sets out the basic rights and obligations of the Northern Mariana Islands and the United States.. It also establishes the basic political, legal and economic relationship of the Northern Mariana Islands with the United States under the Commonwealth status. If the people of the Northern Mariana Islands approve the Covenant, it will thereafter be submitted to the United States Congress for approval. After these approvals are completed, the Covenant will become binding on both sides and will come into effect in three stages.

TITLE

The title of the Covenant helps to explain its purpose. A "Covenant" is a binding agreement, like a contract. The purpose of this Covenant is to establish a Commonwealth of the Northern Mariana Islands. A "Commonwealth" is a self-governing political entity which is closely attached to another, larger political unit, such as a nation. In this case, the Commonwealth of the Northern Mariana Islands will be in permanent political union with the United States.

PREAMBLE

The Preamble states the background leading to how the Commonwealth relationship under the Covenant was established. The Preamble, for instance, notes that the Charter of the United Nations and the Trusteeship Agreement guarantee to the people of the Northern Mariana Islands

the right to choose their own political status separate from the other island districts of the TTPI. It also states that the United States supports the desire of the people of the Northern Mariana Islands to exercise their right of self-determination. Further, it notes that the people of the Northern Mariana Islands and the people of the United States share the values of government by consent of the people, and the values of individual freedom and democracy. The Preamble recognizes that for over twenty years the people of the Northern Mariana Islands have formally expressed their desire for political union with the United States. For these reasons, the Preamble concludes, the Mariana Islands, represented by the Marianas Political Status Commission, and the United States have prepared and entered into a status agreement called the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

ARTICLE I: POLITICAL RELATIONSHIP

Article I deals with the political relationship between the Northern Mariana Islands and the United States.

The Northern Mariana Islands will become a self-governing commonwealth in political union with the United States upon termination of the Trusteeship Agreement. It is expected that Termination of the Trusteeship will terminate simultaneously for all the districts of the Trust Territory of the Pacific Islands in 1981. The United States will have "sovereignty", that is, ultimate political authority, just as the United States does with respect to all the States and the Territories of the United States.

The right of the people to local self-government is explicitly recog-

nized, and their authority to govern themselves with respect to internal affairs in accordance with their own constitution is guaranteed. But, as is the case with the States and Territories of the United States, the Federal Government will have specific responsibility for the foreign affairs and defense of the Northern Mariana Islands.

The relationship between the Northern Mariana Islands and the United States will be governed by the Covenant itself. When the Covenant is approved by the United States and the Mariana Islands it will become part of the laws of the United States. Thus the Covenant, together with those portions of the United States Constitution and federal law, extended to the Marianas, will be the supreme law of the Northern Marianas, just as federal law is supreme in all areas under the American flag.

As in the States and Territories the United States will be able to enact laws which will be effective within the Northern Mariana Islands. However, to ensure that special circumstances of the Northern Mariana Islands are recognized, federal laws which could not be made applicable to the States will be effective in the Northern Mariana Islands only if they are specifically named in the laws.

The fundamental provisions of the Covenant designed to protect local self-government in the Northern Mariana Islands can be changed only with the consent of both the Government of the Northern Mariana Islands and the Government of the United States. The provisions of the Covenant which are considered fundamental to establishing the political status relationship that are subject to "mutual consent" are these:

-- all of the provisions in Article I, which establish the political

relationship between the United States and the Northern Mariana Islands and provide for the establishment of a self-governing Commonwealth of the Northern Mariana Islands upon termination of the Trusteeship;

-- all of the provisions of Article II, which establish the authority of the Northern Mariana Islands to adopt a Constitution for the Northern Mariana Islands and guarantee the right of local self-government;

-- all of the provisions of Article III, which assure to persons in the Northern Mariana Islands the right to United States citizenship or nationality;

-- the provision in Article V, which guarantees that portions of the United States Constitution, including those portions of the Bill of Rights which protect fundamental individual freedoms, will be applicable to the Northern Mariana Islands; and

-- the provision in Article VIII, which guarantees the right of the Northern Mariana Islands Government to regulate the alienation of real property so as to permit only persons of Northern Mariana Islands descent to obtain permanent and long term interests in land.

ARTICLE II: CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

Article II deals with the Constitution of the Northern Mariana Islands. It guarantees to the people of the Northern Mariana Islands the right to adopt and to change their own Constitution and form of government.

The local Constitution will create a government with separate executive, legislative and judicial branches--the basic form of government found in the United States and all the States, the Territories and

the Commonwealth of Puerto Rico. The local Constitution will also have to contain a Bill of Rights, which will be written by the people of the Northern Mariana Islands to protect themselves from unwarranted government interference in their daily affairs and to guarantee their rights to freedom and liberty.

The executive branch of the local government will consist of a popularly elected governor and such other officials as the people of the Northern Mariana Islands provide for in the Constitution. The legislative branch will also be popularly elected. The people will determine in the Constitution how many representatives each island will have in the legislature. The judicial branch of the local government will consist of such courts as the people of the Northern Mariana Islands decide to create. These courts will be empowered to decide cases involving local law. In addition, a federal court will be created in the Northern Mariana Islands by the United States to decide cases involving federal law. The federal court will also hear local cases if the local legislature determines that it should do so.

The original Constitution of the Northern Mariana Islands will be reviewed by the U.S. Government to assure that it is consistent with the Covenant and with applicable federal law. The U.S. Government will otherwise have no authority to require a change to the local Constitution. Amendments to the local Constitution will not be reviewed by the U.S. Government, but may be reviewed by the courts in proper cases to ensure they do not conflict with the Covenant and applicable federal laws.

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ARTICLE III: CITIZENSHIP AND NATIONALITY

Article III deals with U.S. citizenship and nationality for persons in the Northern Mariana Islands after the termination of the Trusteeship.

Upon termination of the Trusteeship the following persons and their children under 18 will become citizens of the United States unless they choose to become nationals of the United States instead or owe allegiance to any foreign State:

-- persons born in the Northern Mariana Islands who are citizens of the Trust Territory and who live in the Northern Marianas or the United States or any U.S. Territory;

-- persons who are citizens of the Trust Territory and who have lived continuously as permanent residents in the Northern Marianas for five years prior to termination of the Trusteeship and who, unless under age, registered to vote in the Marianas prior to January 1, 1975; and

-- persons who are not citizens of the Trust Territory but have lived as permanent residents continuously in the Northern Mariana Islands since January 1, 1974.

Persons who wish to become nationals of the United States instead of citizens of the United States will do so by making a declaration under oath in court. There is no difference in the obligations of a national and a citizen in terms of taxes or similar matters, but citizens have certain advantages, such as being able to hold certain government jobs

and holding State or federal offices, which nationals do not have.

Persons born in the Northern Marianas after termination of the Trusteeship will be citizens of the United States at birth. The Covenant also has provisions which assure that close relatives of persons in the Northern Marianas can become citizens of the United States after termination of the Trusteeship.

ARTICLE IV: JUDICIAL AUTHORITY

Article IV deals with the judicial authority of the United States in the Northern Marianas, and the relationship between the federal court to be established here and the local courts.

The United States will establish a federal District Court in the Northern Marianas. In general, this court will have the same authority as the federal court federal court in Guam. The federal court will also be empowered to resolve legal disputes arising under local Northern Marianas law, but the local legislature will have the authority to decide what local matters should be in the federal court and what local matters should be in the local courts. Further, the federal court will be able to hear appeals from the local courts if the local legislature determines that it sould do so.

The relationship between the local courts and the federal court in the Northern Marianas will be generally the same as the relationship between the local courts and the federal court in Guam. This means that in appropriate cases appeals may be taken from the local courts to the federal courts, including, eventually, to the Supreme Court of the United States.

There are special provisions in the Covenant to assure that jury trials will not be required in civil or criminal cases brought under local law unless the local legislature determines that they should be required. Similarly, a grand jury indictment in criminal cases brought under local law will not be required unless the local legislature enacts a law to that effect. Thus the legislature may permit a criminal case to be brought under local law without first presenting that evidence to a special jury if the local prosecutor determines that there is sufficient evidence of a crime. Jury trials and grand jury indictments will be required in cases brought under federal law, however, just as in the States.

ARTICLE V: APPLICABILITY OF LAWS

Article V of the Covenant deals with the extension of the Constitution and laws of the United States to the Northern Marianas. It also assures that laws in existence at the time that the new Government of the Northern Marianas comes into effect will continue to be effective until changed by the local legislature.

As in U.S. Territories generally, certain provisions of the U.S. Constitution apply of their own force and certain others will be specifically made applicable to the Northern Mariana Islands as if it were a State. Of particular importance is the fact that all of the essential elements of the Bill of Rights will be applicable. Thus the power of the federal and the local government will be subject to express limitations so as to guarantee the basic freedoms of religion, speech, press and assembly; to protect against unreasonable searches and seizures; to

prohibit taking of property without just compensation; and to assure due process of law and to guarantee freedom from compulsory self-incrimination, double jeopardy and cruel and unusual punishment.

The Covenant also contains provisions which say that the U.S. Constitution will not apply to the Northern Mariana Islands in any way which might prohibit the local government from regulating land alienation, or from establishing representation for the individual islands in the local legislature which differs from the strict one-man, one-vote requirement applicable in the United States, or from providing for trials without juries and for the prosecution of criminal cases without an indictment by a grand jury.

The Covenant contains a formula for determining the initial manner in which federal laws other than the U.S. Constitution will apply to the Northern Marianas when the new government comes into effect. In general, laws which are applicable to Guam and which are of general application to the States will apply to the Northern Marianas. Provision has been made to assure that those laws which provide federal services and financial assistance programs and the federal banking laws will apply in the Northern Marianas as they apply in Guam, and certain new provisions of the Social Security Act now in force only in the States will apply. In addition, provision has been made to assure that the Public Health Service Act, which provides financial and other assistance for a wide variety of health programs, will apply to the Northern Mariana Islands as it applies to the Virgin Islands because the application of some of the provisions of that act to Guam is doubtful. Finally, provision has

been made to assure that the Micronesian Claims Act will continue to apply so that persons in the Northern Marianas may receive payments for war related damages.

Certain federal laws that do not now apply to the Trust Territory will not apply to the Northern Marianas until the U.S. Congress determines whether and how they should be applicable after the end of the Trusteeship. First, as regards the immigration laws of the United States, the Northern Marianas will have control over immigration until and unless the U.S. Congress makes federal immigration laws applicable in some manner after termination of the Trusteeship. Special provision has been made, however, to ensure that close relatives of Marianas citizens can become U.S. citizens. Second, federal laws which require that goods sent by ship between ports of the United States travel in ships under the American flag; and federal laws which prohibit ships under foreign flag from landing fish or unfinished fish products in the United States will not apply to the Northern Marianas until and unless made applicable in some manner by the Congress after termination of the Trusteeship. Third, the minimum wage provisions of federal law as they apply to private employers and employees will not be made applicable to the Northern Marianas until Congress acts after termination of the Trusteeship Agreement. The local Marianas government will have the authority to pass those minimum wage laws which it deems appropriate for the economic conditions in the Northern Marianas. Further, special provision has been made to assure that all employees of the United States and its contractors will receive the minimum wage in accordance with the U.S. law.

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A complete review of all federal laws will be made. The Covenant provides that the President of the United States will appoint a Commission on Federal Laws which will make recommendations on which laws should apply to the Marianas on a permanent basis. The statutory review commission will consist of seven persons, at least four of whom will be from the Northern Marianas. The Commission will make its recommendations within at least one year after the end of the Trusteeship. The cost of the Commission's work will be paid by the United States except for local salaries.

Finally, special provision is made to assure that the local laws of the Trust Territory and of the Northern Mariana Islands District will continue in effect until altered by the local legislature.

Together with other provisions, this last provision will assure that there will be a body of federal and local law functioning in the Northern Marianas immediately upon the establishment of the new Government.

ARTICLE VI: REVENUE AND TAXATION PROVISIONS

Article VI deals with revenues and taxation, including provisions relating to customs and excise taxes, U.S. and local social security benefits and other matters.

In general, the income tax laws of the United States will be effective to the Northern Marianas in the same way that the income tax laws of the United States are effective in Guam. This means that the federal income tax law will serve as a local territorial income tax. All revenue collected under this tax will be income for the Marianas government. Taxpayers in the Northern Marianas will file only one tax return form

under new simplified federal procedures. This tax return form will generally be filed with the Government of the Northern Marianas and payments made to it. The Government of the Northern Marianas will have the authority to rebate to local taxpayers taxes received by it from the local territorial income tax from local sources, just as the Government of Guam exercises this authority. In addition, the Government of the Northern Marianas will be able to impose such local taxes as it deems appropriate, including excise taxes on goods made, sold or used in the Northern Marianas or on work or services performed here.

The Northern Marianas will not be within the customs territory of the United States. This means that it may be a duty free port, as is Guam. Special provision has been made to assure that the Northern Marianas receives the same tax benefits as does Guam with respect to goods produced in the United States and shipped to the Northern Marianas. Special provision has also been made to assure that goods going from the Northern Marianas into the customs territory of the United States will have the same favorable tax and customs treatment as goods shipped from Guam into the customs territory of the United States. Finally, the United States agrees in the Covenant to try to obtain from foreign countries favorable treatment for goods shipped from the Northern Marianas.

The people of the Northern Marianas will receive the benefits of the U.S. Social Security System. No later than the time the Covenant is approved, the Northern Marianas share of the taxes paid into the Trust Territory Social Security Fund will be transferred to a special

trust fund to be administered by the United States in accordance with locally enacted laws. A person entitled to social security benefits under the Trust Territory system will also be entitled to social security benefits under the new fund, and the United States will guarantee that persons receive those benefits. Upon termination of the Trusteeship, or possibly earlier if the Government of the United States and the Northern Mariana Islands agree, federal laws establishing the U.S. Social Security System will become effective in the Northern Marianas as they are effective in Guam. At that time the people will be able to take full advantage of all the benefits of the U.S. System. At the same time, the taxes that support the U.S. Social Security System will be extended to the Northern Marianas. The United States will guarantee that persons who are entitled to social security benefits under local law at the time the change into the new social security system is made will receive benefits in accordance with federal law instead.

Finally, bonds issued by the Government of the Northern Mariana Islands to raise funds for public projects will be exempt from taxation by the United States or any State or Territory. During the period of financial assistance provided by Article VII, the local government will not be authorized to go into debt in excess of 10% of the total value of all property in the Northern Marianas.

ARTICLE VII: FINANCIAL ASSISTANCE

Article VII deals with the direct financial assistance from the United States to the Northern Marianas.

The United States will provide multi-year financial assistance to help the people of the Northern Marianas achieve a progressively higher standard of living as part of the American economic community and to help develop the economic resources needed to meet the financial responsibilities of local self-government. The initial period of support will be seven years beginning when the new Government comes into existence. During each of these seven years the United States guarantees that it will provide for the Northern Marianas a total of \$14 million in direct assistance, to be used as follows:

-- \$8.25 million annually to help pay for the operation of the local government, including salaries of government officials; \$250,000 of this amount each year will be used only for a special education training fund to help train local workers for new jobs needed because of the change in political status;

-- \$4 million annually to help pay for capital improvement projects, such as schools, roads and harbors; \$500,000 of this amount each year will be used only for projects on Tinian and \$500,000 of this amount each year will be used only for projects on Rota; and

-- \$1.75 million annually for an economic development loan fund; \$500,000 of this amount each year will be reserved for loans to farmers and fishermen and for agricultural and marine cooperatives; and \$250,000 of this amount each year will be reserved for a special fund for loans for housing for low income families.

The amount which the United States guarantees to provide each year

will be adjusted to take into account changes in the cost of living each year. At the end of the initial seven year period of assistance, the Northern Marianas will continue to receive an amount equivalent to \$14 million in 1975 dollars a year until the U.S. Congress determines, in consultation with the Government of the Northern Mariana Islands, another amount is appropriate.

In addition to the direct grant assistance, the United States will pay over to the local government all federal taxes collected in the Northern Marianas, including those taxes collected from any military personnel stationed in the Marianas.

Further, as already said, the United States will make available to the Northern Marianas the full range of federal programs and services available to the Territories of the United States generally. The value of these programs and services is estimated to be at least \$3 million annually.

There are many such federal services and financial assistance programs. In the area of public health and welfare, for example, the Northern Marianas will be eligible for the following kinds of programs in addition to the Public Health Service Act: health maintenance organization assistance, aid for dependent children, old age assistance, medicaid, food stamps, child nutrition, and the school lunch program. In the area of education, the Northern Marianas will be eligible for such programs as school construction in areas affected by federal activity, grants for basic adult education, grants for vocational education and for

public libraries. In the area of community development, the Northern Marianas will be eligible for such programs as community development act grants, airport and airway development act grants, mortgage insurance, sewage treatment grants, rural electrification and telephone service assistance, and disaster relief. In the area of public services, the Northern Marianas will be eligible for such programs as postal services, federal aviation administration assistance, public works or facilities assistance, law enforcement assistance, solid waste disposal act assistance, and assistance for road construction. Finally, in the area of employment and economic development, the Northern Marianas will be eligible for such programs as aid to small businesses, economic opportunity programs, and manpower development and training programs.

ARTICLE VIII: PROPERTY

Article VIII relates to property issues in the Northern Marianas, including such matters as U.S. defense needs, transfer of public land including military retention land to local control, and restraints on land alienation.

All land in the Northern Marianas owned or held by the Trust Territory government will be turned over to the local government no later than at the end of the Trusteeship. At the same time, if not previously accomplished, all movable property (desks, vehicles and the like) owned by the Trust Territory will be distributed equitably among the Districts after consultation with those concerned, including the Government of the Northern Marianas.

The United States will lease -- not purchase -- from the local

government, or from the legal entity established to hold public lands in trust for the people of the Marianas, certain land needed for defense purposes. On the northern portion of Tinian, the United States will lease approximately 7,203 hectares. On Saipan, along the southern-most edge of Tanapag Harbor, the United States will lease approximately 72 hectares. Finally, the United States will lease the uninhabited island of Farallon de Medinilla, consisting of approximately 83 hectares. The United States has affirmed that it has no present need for or present intention to acquire any additional property for defense purposes, or to acquire ownership of the land which is being leased to it for defense purposes.

The United States will pay a lump sum total of \$19,520,600 for a fifty year lease on the land described above. The United States has the right to renew the lease for an additional fifty years at no additional cost to the U.S. This amount was determined as follows: for use of land areas on Tinian, \$17.5 million; for use of land areas of Tanapag Harbor, \$2 million; and for use of land on Farallon de Medinilla, \$20,600. The money received for Tanapag Harbor will be placed into a trust fund to pay for the development and maintenance of an American memorial park on 54 hectares of the total land area. This will provide recreation facilities for use by the public memorials to the Americans and people of the Marianas who died in World War II.

In recognizing the importance of land to local residents, the United States has agreed that for the nominal sum of approximately \$1.00 per

acre per year, it will lease back to the Northern Marianas Government approximately 2,591 hectares on Tinian and approximately 44 acres at Tanapag for uses which are consistent with the United States need for the land. A separate agreement, known as the "Technical Agreement", sets out the specific details on the use of the leased-back land and the terms of the lease back arrangements. The Technical Agreement will also deal with such issues as accessibility to historical areas and to beaches by the local population, joint use of Tinian Harbor and West Field, joint planning and development utilities on Tinian, the park at Tanapag Harbor, safety and environmental protection, and the establishment of a joint civilian-military committee.

The United States will also cancel rights it now holds with respect to military retention land in the Northern Marianas so that approximately 1,900 hectares will come under the control of the Marianas Government. The United States Government aircraft will continue to be able to use Isley Field on a joint basis. Land presently used and needed for federal civilian activities, such as Post Office and Coast Guard activities, will continue to be used by the U.S. Government under terms and conditions comparable to those in effect.

Special provision is made regarding the issue of land alienation. Recognizing the limited amount of land in the Northern Marianas, and the need to protect against exploitation and to promote economic advancement and self-sufficiency, the Covenant provides that during the first 25 years after the Commonwealth comes into existence, the Government of the Northern Marianas must prevent persons who are not of Northern Mariana

Islands descent from owning land or from obtaining long term interests in land. Thereafter the local government may impose these restraints. The local government will determine how these restraints will be implemented and will define such terms as "Mariana Islands descent" and "long term interests". In addition, the local government can regulate the amount of public land which any one person may own or use.

In obtaining any land which it may need in the future for governmental purposes, the United States will follow the policy of seeking only the minimum area and interest in land that is needed for a public project, of obtaining ownership of the land only if the public purpose cannot be met by a lease, and of first seeking to obtain public land in the Marianas before any private land is sought. In accordance with these policies, and respecting the protections contained in the due process clause of the United States Constitution and in federal law to protect local residents, the U.S. Government will hold and may exercise the same power of eminent domain in the Northern Marianas as it can in all the States and Territories and the Commonwealth of Puerto Rico. Before exercising this power of eminent domain, the United States will attempt to secure the land which it needs by voluntary means. Land in the Northern Marianas will be acquired only if the Congress has authorized the acquisition of the land and provided funds to pay just compensation to the land owner.

ARTICLE IX: NORTHERN MARIANA ISLANDS REPRESENTATION AND CONSULTATION

Article IX deals with the representation of the Northern Mariana Islands in Washington, D.C., and with the procedures for consultation between the local government and the U.S. Government.

The Northern Marianas will be entitled to elect or appoint a representative in Washington who will be given official recognition by all departments and agencies of the United States. This representative will present the views of the Northern Marianas to the United States Executive Branch and Congress, but will not be a member of the Congress. The representative must be a citizen and resident of the Northern Marianas and at least twenty-five years of age. After termination of the Trusteeship Agreement, the representative must also be a citizen of the United States.

The Covenant provides that there will be regular consultation between the local government and the federal government on all matters affecting the relationship between them. At least once every ten years there will be formal meetings of special representatives to consider status and other issues. In addition there will be such meetings as are necessary to determine the amount of financial assistance the Northern Marianas will receive after the initial seven year period is concluded.

The undertakings and obligations of the Government of the United States and of the Government of the Northern Marianas provided for in the Covenant will be enforceable in the federal courts, and the federal courts will also be able to decide issues involving the Covenant.

The United States agrees to give sympathetic consideration to the views of the local government on international matters directly affecting the Northern Marianas and to provide opportunities for the presentation of the Northern Marianas views in the same way Territories and the

Commonwealth of Puerto Rico are permitted to do so. Likewise, if U.S. Territories and the Commonwealth of Puerto Rico are permitted to participate directly in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters, the United States will permit the Northern Marianas Government to do so on a comparable basis. The United States also agrees to assist and facilitate the establishment of Northern Mariana Islands offices in the United States and in foreign countries to promote local tourism and economic or cultural interests.

ARTICLE X: APPROVAL, EFFECTIVE DATES AND DEFINITIONS

This article outlines how the Covenant will be approved and put into effect and defines terms used in the agreement.

The Covenant will first be submitted to the Mariana Islands District Legislature for its approval. After approval by the Legislature, it will be submitted to the people of the Northern Marianas for their approval in a plebiscite. The Covenant will be considered approved if a majority of those voting favor it. To be eligible to vote in the plebiscite, a person must be domiciled in the Northern Marianas (that is, must be a permanent resident who intends to remain here) and must meet certain other qualifications. After the Covenant is approved by the Northern Marianas, it will then be submitted to both Houses of the United States Congress for approval on behalf of the United States.

Upon the approval of the Covenant by both sides, the Covenant will become a binding agreement and certain of its provisions will become effective immediately, such as those provisions relating to mutual consent