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COMMONWEALTH COVENANT

PROPOSED ANSWERS TO COVENANT ISSUES

ARTICLE I.

1. A new territory.

- a. It was the desire of the local people that the Northern Mariana Islands become a separate Commonwealth. This is part of their right to self-determination.
- b. The Covenant does not preclude the Northern Mariana Islands from joining with Guam. The people of the NMI may join with Guam as one U.S. Territory, if it is their desire at a future date.
- c. The Covenant specifically recognizes in §105 that unification may occur at any time with the consent of the Northern Mariana Islands Government.
- d. The Western and mid-Pacific Ocean regions encompass an area larger than the size of the United States. Vast ocean distances reinforces local island identification and requires the United States to recognize these unique island characteristics.

2. Nature of the U.S.-NMI Relationship.

- a. (1) The U.S. Congress should be willing to limit to plenary powers as described in the Covenant in certain areas in recognition of the desire of the people of the NMI to govern themselves in local matters, and in recognition of their wish to be assured that fundamental aspects of the

relationship which they have negotiated with the United States would not, in the future, be modified with their consent.

2. a. (2) Yes. The MPSC was insistent that the people of the NMI wished as full self-government over local matters as membership in the U.S. federal system permits. Accordingly, It was agreed to include specific language on this point in the Covenant.
- (3) The people of the NMI have reached a voluntary decision to enter close union with the United States. In participating in their sovereign act of self-determination, they have negotiated and approved a basic future relationship with the U.S. It is entirely appropriate that they be assured that the basic terms they have negotiated for their future status are those which will remain in effect - unless they agree to the contrary. Given the plenary powers, Congress would have over the NMI, it is necessary, in order for this assurance to be fulfilled, for Congress to agree to limit its plenary powers as the Covenant provides.
- b. The treatment of NMI in many regards, as a State, is a corollary to the desire of the NMI to have full authority over local matters, as would a State.
- c. There is no clear precedent.
- d. Specific inclusion of the NMI in federal legislation will give the U.S. Congress the opportunity to explore the necessity for

such legislation and will avoid random application of federal services and programs that may not be appropriate for the Northern Mariana Islands.

ARTICLE II.

1. Approval of NMI Constitution.

- a. Approval of the NMI Constitution will be in accordance with the constitutional processes of the United States, which includes the U.S. Congress.
- b. The 6 month time frame will insure that affirmative action would be necessary to cause a delay in implementation of local self-government in the Northern Mariana Islands.
- c. The scope of the United States review of the NMI Constitution is consistent with U.S. guarantees of local self-government.

2. Structure of the NMI Legislature.

Membership in and the structure of the Northern Mariana Islands bicameral legislature parallels that of the U.S. Congress and the American Samoan Legislature of "fono" where representation on a basis other than population is provided. Membership in the NMI Legislature, as requested by the Marianas Political Status Commission, will reflect that the NMI is an island culture and grouping with particular island demographic features requiring exclusion from the strict population basis for local legislatures.

3. Power of the Legislature.

a. The wording for Guam's legislative authority refers to subjects of local concern, whereas the wording of the legislative authority of the Northern Mariana Islands is identical to that granted to the Virgin Islands.

b. As a general rule matters of "local concern" would be the proper subjects for the Commonwealth Government, normally. The federal laws to be extended would, generally, deal with federal issues common to the States and territories. However, under Section 105, the Congress could pass legislation on purely local matters which would be applicable (solely) to the Northern Mariana Islands by specifically naming the NMI in such legislation. It is intended that Congress would exercise the latter authority only in the most extreme (?) cases, as they would be considered an infringement on local self-government.

ARTICLE III.

1. U.S. citizenship option.

a. All aliens are granted an option of how they will relate to the United States as aliens residing in the United States, as full U.S. citizens, or as U.S. nationals as in American Samoa. The precise option in the Covenant is formulated to guarantee that all qualified NMI residents will obtain some rights of U.S. citizenship unless they take the affirmative step to relinquish these rights.

b. The variation between residency requirements reflects local desires. It also recognizes that the entry and residence of

foreign aliens are strictly controlled under Trust Territory law so that few aliens have entered the Northern Mariana Islands. In contrast are the numerous Trust Territory citizens from other districts who are granted the right to travel freely and reside in all the districts of the Trust Territory of the Pacific Islands, including the Northern Mariana Islands.

2. Privileges and Immunities

Section 304 recognizes that U.S. citizens will receive certain rights in the Northern Mariana Islands under Section 501 immediately upon approval of the NMI Constitution; this section provides a reciprocity of treatment to local residents so that States cannot discriminate against local residents.

ARTICLE IV.

1. Federal Court of the NMI

- a. The NMI federal court is created to reflect the desires of the MPSC and to reflect the separate Commonwealth-United States territorial relationship.
- b. The Northern Mariana Islands and Guam federal courts may share administrative functions, such as clerk, secretaries, procurement, etc. If Congress agrees, the Federal District Judge for Guam may sit as the Federal District Judge for the NMI.
- c. The appellate authority of the NMI Federal Court to hear local cases follows the precedents established for Guam and the Virgin Islands.

ARTICLE V.

1. Application of provisions of the U.S. Constitution.

- a. The additional ~~provisions of the Federal Constitution extended~~ to the NMI are designed to further clarify the United States-Northern Mariana Islands political and legal relationship.
- b. Many provisions of the Federal Constitution extend to the territories of their own force, e.g. Article II the Powers of the President, Article I, Sections 1-8 relative to the U.S. Congress, and Article III relating to the federal judiciary.
- c. Other provisions ~~of the U.S. Constitution will not be extended~~ at present because the NMI is not fully integrated into the United States political system. Extension of other provisions would also act to alter the basic United States-Commonwealth status relationship which the United States has agreed would occur only with local consent.

2. Specific application of certain federal laws.

- a. The representatives of the NMI were of the opinion that the application to NMI of only these laws applicable to Guam ~~would~~ not satisfy the particular needs of the Northern Mariana Islands. The resulting formula represents a package which ~~both sides~~ considered reflected legislation which would be in the best interest of the NMI and the United States.
- b. The NMI has particular developmental needs that can be met only by extending special treatment to the application of federal programs. The federal benefits extended to the NMI are based

on precedents given either to the States or the other territories.

- c. This formula reflects United States desire to see the NMI treated, for administrative reasons, as similarly to Guam as possible and NMI desires to insure a high-level of local self-government.

3. Specific exclusion of the NMI from the application of certain federal laws.

- a. U.S. immigration laws do not now apply to the Northern Mariana Islands. The TTPI regulates its own immigration policies. ~~During the remainder of the Trusteeship, the NMI will be~~ excluded from U.S. immigration laws so as to be consistent with that policy. The U.S. immigration laws will thereafter apply, if U.S. Congress so desires.
- b. The exclusion of the NMI from the coastwise laws of the United States is based on the recognition that these laws do not now apply to the TTPI. During the remainder of the Trusteeship, the NMI will remain outside these laws. This follows the precedence set for American Samoa and the Virgin Islands, and recognizes that these laws have strict prohibitions on the sale and use of U.S. vessels which would act discriminatory against the NMI until local residents become U.S. citizens at the end of the Trusteeship.

4. Special application of the U.S. naturalization laws.

- a. Granting U.S. citizenship to immigration relatives follows current U.S. law.

- b. Local officials will become U.S. officials and, in any case, will be subject to federal court review.

ARTICLE VI.

1. Local taxes.

Taxation authority for the NMI is granted in recognition of local self-government; this general authority parallels the precedents of Guam and Puerto Rico.

2. Imports and Trade.

- a. Import taxation was considered properly a local matter for the NMI which, like Guam, is outside the U.S. customs jurisdiction. This authority is to be consistent with U.S. international agreements, however.
- b. The United States obligation to seek special trade treatment for the NMI with other countries is in recognition of the fact that the NMI is not economically self-sufficient. Other U.S. territories are more greatly developed.

3. Social Security.

U.S. administration of the NMI Social Security System is in response to local desires to protect local Social Security funds during the interim period prior to the end of Trusteeship Agreement. Separate administration of these funds recognizes that the NMI will not receive the full U.S. Social Security Program until the end of the Trusteeship Agreement, but will be integrated into other aspects of the U.S. Social Security System.

ARTICLE VII.

Multi-year authorization.

- a. The Covenant is a binding legal document between the United States and the Northern Mariana Islands if approved by the U.S. Congress. The United States is liable in the federal courts for all commitments as it has also made to the NMI because it will be a member of its political family.
- b. The inflationary adjustant clause is in recognition of past development problems in the NMI and reflects administrative needs for consistency in economic forecasting and planning.
- c. U.S. grants are currently used by the TTPI to satisfy United States matching grant requirements. This privilege is also continued for the NMI and is to reflect that local revenues currently remain insufficient to satisfy U.S. grant requirements.
- d. The jurisdiction of the U.S. Comptroller is currently extended to the TTPI. These laws will remain in effect in the NMI until the end of the Trusteeship.

ARTICLE VIII.

1. U.S. land requirements.

- a. The United States will lease certain lands back to local residents in recognition of the scarcity of land in the NMI. Strategic interests require that the United States maintain legal rights to these lands in the event their future use is required. Maintaining legal right to these lands will avoid

land speculators from raising land prices to a level that would be prohibitive for future acquisition by the U.S. Government and thus may impair the ability of the United States to meet its security requirements.

b. ~~New lease agreements will compensate~~ land owners and the NMI at a rate more reflective of current land values. Earlier agreements were based on 1944 land values and reflected little, if any, economic or developmental potentials.

2. Restrictions on local land ownership.

a. ~~The protections provided to NMI lands are based on the need to~~ protect local residents against exploration and the loss of their lands. This protection is founded on the obligation of the United States to the NMI for the duration of the Trusteeship Agreement under Article 6. The protections are based as well on substantial executive, legislative, and judicial precedents in protecting local native lands in Hawaii and Samoa, and in protecting Indian Tribal lands.

b. It is clear in the negotiation history that both the U.S. and the MPSC agreed "persons of Northern Mariana Islands ancestry" is to include both those of Chamorro and Carolinian heritage. The United States felt that the Northern Mariana Islands is otherwise best qualified to define who is of local ancestry.