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MEMORANDUM OF MEETINGS

This memorandum sets out the results of meetings held in Washington, D.C. during November 1975 between the undersigned representatives of the Mariana Islands, all of whom are members of the Ad Hoc Committee on Administration Contingency Planning for the Marianas Separation (the "Ad Hoc Committee") and the undersigned representatives of the Congress of Micronesia, all of whom are members of the Special Joint Committee on Marianas Transition.

BACKGROUND

On September 5, 1975, the Ad Hoc Committee issued its "Report and Recommendations."^{*} In early November, 1975, the undersigned representatives of the Congress of Micronesia requested that the undersigned representatives of the Marianas meet with them in Washington to discuss certain issues raised by the prospective separation of the Marianas which were not dealt with satisfactorily, in view of the Congress of Micronesia representatives, in the Ad Hoc Committee Report. The Marianas representatives agreed to

^{*}/ The draft Secretarial Order contained in the Ad Hoc Committee Report was modified on October 2, 1975.

these discussions. The goal of the meetings was to agree on recommendations resolving the issues raised. These recommendations would be taken to the respective principals of each party and submitted by them to the Secretary of Interior as a supplement to the Ad Hoc Committee Report.

ASSUMPTIONS

The recommendations set out below reflect certain assumptions shared by the Marianas representatives and the Congress of Micronesia representatives. First, it was assumed that the Covenant would be approved by the U.S. Senate in December or early January, would immediately be signed by the President, and would thereupon come into effect in accordance with its terms. It was also assumed that the Secretary of Interior would issue a Secretarial Order providing for the separation of the Marianas from the remainder of Micronesia promptly after enactment of the Covenant, so that there would be a very limited period between the meetings described in this memorandum (November 1975) and the separate administration of the Marianas (Spring 1976). In particular, it was assumed that the Secretarial Order would be issued in time for a division of certain funds to be made as of the end of the Micronesian fiscal year (March 31, 1976), since additional complications would be created, requiring additional study, if the divisions were to occur at mid-year. Furthermore, it was

assumed that the period of separate administration would last approximately one year, during which time the Marianas would adopt a constitution and submit it for approval to the United States in accordance with the Covenant. Following United States approval of the Marianas constitution, the period of separate administration would end and the constitutional government of the Marianas would be established. This government, of course, would not be bound by the Secretarial Order with respect to separate administration. (See part XIV of the draft Secretarial Order in the Ad Hoc Committee Report.) To the extent these assumptions may prove to have been incorrect -- in particular if the Covenant is delayed in Congress or if an amendment is adopted to the Covenant that would result in a long period of separate administration -- the premises of the recommendations set out below would be undermined and the recommendations would have to be re-examined by both sides.

SUMMARY OF RECOMMENDATIONS

Land Use: Upon the separate administration of the Mariana Islands, title to lands presently actively used by the Government of the Trust Territory will, under the terms of Secretarial Order No. 2969, vest in the Resident Commissioner or such other executive officer of the Government of the Mariana Islands as the Secretary shall designate.

The Trust Territory Government will be able to continue to use and occupy such land consistent with Secretarial Order No. 2969. It is recommended that the Trust Territory Government's use of such land be required to be reasonable and to respect the residual rights of the Government of the Mariana Islands (or the legal entity that will hold land in trust for the people of the Marianas). Any disputes arising from the Trust Territory Government's use of land in the Marianas should be resolved by the High Commissioner of the Trust Territory and the Resident Commissioner or other designated executive of the Mariana Islands.

Applicability of Laws: The present capitol of the Trust Territory is located on Saipan. All of the undersigned support the request of the Congress of Micronesia for the United States Congress to provide funds to establish a Micronesia capitol outside the Marianas. It is recommended that during the period of separate administration while the Trust Territory capitol is still on Saipan, a limited area around the capitol, including necessary housing on land owned by the Trust Territory Government, should be established as a Trust Territory Capitol District. In this District, with certain exceptions, the Government of the Marianas would exercise no governmental authority. Within the Capitol District, with certain exceptions, the Government of the Trust Territory would have exclusive governmental

authority. Outside of the Capitol District, the Government of the Marianas would have exclusive governmental authority, subject to the rights of the Trust Territory Government with respect to land, as discussed above.

It is also recommended that the Government of the Trust Territory should prohibit the establishment of commercial operations in the Capitol District, other than those reasonably incident to its governmental functions. Moreover neither Government should impair the right of ingress or egress from the Capitol District. Finally, it is recommended that any minimum wage laws enacted by the Government of the Mariana Islands should be permitted to apply to persons employed in the Capitol District, but that such laws should not apply to the Trust Territory Government with respect to any of its employees anywhere in the Marianas.

To facilitate cooperation between the two governments with regard to the Capitol District, a Joint Commission, composed of representatives of the Trust Territory Government and the Mariana Islands Government should be established. This Commission should recommend procedures to allow the enforcement of criminal and civil laws by both governments, including such matters as service of process and "hot pursuit" of alleged criminals.

Fiscal Year 1976 Congress of Micronesia Appropriated Funds: In general, it is recommended that all funds

appropriated by the Congress of Micronesia for the Micronesian Fiscal Year 1976 (ending March 31, 1976), and allocated for expenditure in the Mariana Islands District should, to the extent they have not been expended by the end of the fiscal year, be transferred to the Government of the Mariana Islands. Revenues due to the Congress of Micronesia from the Mariana Islands District should continue to accrue until March 31, 1976, but not thereafter. There should be fair and non-discriminatory treatment of the Mariana Islands District with respect to expenditures and taxation until that time. Representatives of the Mariana Islands serving in the Congress of Micronesia should resign on or before March 31, 1976.

Certain exceptions to this general formula will be needed however. For example, loans made from the revolving fund established by Section 1 of P.L. 6-26 to students residing in the Mariana Islands should be repaid to the Government of the Mariana Islands. One-sixth of the money remaining in the fund as of the end of Micronesian Fiscal Year 1976 should be transferred to the Government of the Mariana Islands. All funds accrued for disbursement to residents of the Mariana Islands from the Production Development Loan Fund, the Marine Development Loan Fund and the Agricultural Development Loan Fund as of the end of Micronesian Fiscal Year 1976 should be disbursed to such

persons. After such disbursements have been made, all outstanding loans to residents of the Mariana Islands should be repaid to the Government of the Mariana Islands. Monies in these funds not committed as of March 31, 1976 should remain in the funds and therefore under the control of the Trust Territory Government. It is also recommended that the Government of the Marianas be able, if it bears a proportionate cost, to arrange for copra producers in the Mariana Islands to participate in the activities of the Copra Stabilization Board. In addition, copra producers in the Mariana Islands should have access to the facilities of the Copra Processing Authority on the same basis as producers from the remaining districts.

In addition, special treatment may be necessary with respect to the Saipan Utility Agency. It is recommended that services currently provided by the Saipan Utility Agency to the Trust Territory Government should continue to be so provided on a non-reimbursible basis. In the event that the costs of operating the Saipan Utility Agency exceed estimated reimbursements plus funds appropriated by the United States Congress and allocated to the Marianas from the operation of the Agency, the Government of the Trust Territory should be responsible for a portion of any such deficit, determined by the ratio of the services provided to the Trust Territory Government to the total services

provided by the Saipan Utility Agency.

Fiscal Years 1966 and 1967 U.S. Congress Appropriated Funds: In general, it is recommended that all funds appropriated by the United States Congress for the Trust Territory that are specifically identified in the budget request or justifications as funds to be expended in the Mariana Islands should be transferred by the Government of the Trust Territory to the Government of the Mariana Islands to the extent that such funds are actually appropriated by the United States Congress. Funds not so identified should not be transferred. The Trust Territory Government should continue to provide the same services in and to the Mariana Islands as it presently provides.

Economic development loan funds provided by the United States Congress present particular difficulties. It is recommended that all loans made to residents of the Mariana Islands from the economic development loan funds appropriated by the United States Congress outstanding on the date on which separate administration of the Mariana Islands is initiated should be repaid to the Government of the Mariana Islands. Until that date, loans should be continued to be made in a non-discriminatory manner under existing standards. Loans made to non-residents of the Mariana Islands outstanding as of the date of separate administration should be repaid to the Trust Territory Government.

Monies appropriated by the United States Congress but unloaned as of the date of separate administration, and appropriations by the United States Congress for economic development loan programs thereafter, should remain with the Trust Territory Government. The question of how to deal with loans made by private institutions and guaranteed by a set aside from the economic development loan fund, was discussed, but because of uncertainty regarding the composition of the guaranteed loan portfolio, no recommendation can be made regarding the division of this portfolio or of the guaranteed reserves. This matter requires further study and discussion.

Congressional Immunity: No member of the Congress of Micronesia should be held to answer before any tribunal of the Government of the Mariana Islands for any speech or debate in the Congress, and the members of the Congress of Micronesia should in all cases, except treason, felony or breach of the peace, be privileged from arrest by the authority of the Government of the Marianas during their attendance at the sessions of the Congress and in going to and from the same. Members of the legislative body of the Mariana Islands should enjoy the same immunity in the other districts of the Trust Territory.

Free Movement of Goods: It is noted that Part XII of the Secretarial Order contained in the Ad Hoc Committee

Report would prevent any district including the Mariana Islands District from imposing any export or import tax on any goods transported or transhipped to any other district. The undersigned have no objection to this provision.

Job Protection: No employee of the Trust Territory Government other than those employees appointed with the advice and consent of the Congress of Micronesia, and no employee of the Government of the Mariana Islands should be denied continued employment on the basis of separate administration of the Mariana Islands.

Social Security: The undersigned noted their mutual understanding that the division of the Trust Territory Social Security Retirement Fund could be done at an administratively convenient time, such as the end of a fiscal quarter, provided that the calculation is made as of the date the Covenant is approved. Other details with respect to the division of the Social Security Retirement Fund will have to be worked out by experts from the agencies involved, and none of the undersigned believe that any of these details raise significant problems.

Central Repair Shop: Management and control of the Central Repair Shop should be transferred to the Marianas at the time of separate administration. The Central Repair Shop should continue to serve the Trust Territory Government Headquarters and the other districts

on a first-come, first-served reimbursible basis. Funds provided for the operation of the Central Repair Shop should be transferred to the Government of the Marianas, and the Government of the Marianas will bear the costs of operation.

Taxation: This was the only area discussed in which the representatives were unable to reach substantial agreement on a recommendation. The Marianas representatives made the following proposal: the Trust Territory Government could impose an income tax on all persons who work for it in the Marianas in the same manner as it taxes those who work for it in the other districts; the Marianas Government could tax all persons and income in the Marianas, except that members of the Congress of Micronesia and its non-Marianas-domiciled staff would be exempt from Marianas personal income tax on non-Marianas source income (including income from their official duties); employees of the executive and judicial branches of the Trust Territory Government would be subject to Marianas personal income tax, but would get a credit from the Marianas for the amount paid to the Trust Territory Government; and each government would agree not to discriminate with respect to the taxation of those also subject to the tax jurisdiction of the other.

The representatives of the Congress of Micronesia were generally agreeable to this proposal, but in addition

they proposed that the existing division of revenues generated in the Mariana Islands by taxes on imports and exports in certain categories (cigarettes and tobacco, beer and malt, and foodstuff materials) be continued. The representatives of the Mariana Islands were unable to agree to any such division, believing that these revenues properly belong to the Mariana Islands Government after separate administration, and that the proposal they had made with respect to personal income taxation provided sufficient protection for the Trust Territory Government. Accordingly, the undersigned were unable to make any agreed recommendation with respect to the taxation issues raised.

PROCEDURE

It was agreed that the undersigned would bring the agreed recommendations stated above to the attention of their respective principals, the Congress of Micronesia and the Mariana Islands District Legislature, and urge that these recommendations be approved and forwarded to the Secretary of Interior. It was further agreed that additional study and consultation would take place in Saipan in an effort to resolve the issues as to which no recommendations could be agreed upon.

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Congress of Micronesia:

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