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(How)

COVENANT TO ESTABLISH A COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS

(PL 94-241)

BASIC DOCUMENT
AND
ANNOTATIONS

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September 1976

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THE COVENANT TO ESTABLISH A COMMONWEALTH
OF THE NORTHERN MARIANA ISLANDS IN
POLITICAL UNION WITH THE UNITED STATES OF AMERICA

Basic Documents
and
Annotations

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Introduction

1. Text of Public Law 94-241 approving the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America."
2. Annotations to the Covenant.

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- A. Technical Agreement Regarding Use of Land to be Leased by the United States in the Northern Mariana Islands.
- B. Report of the Drafting Committee.

Introduction

The purpose of this compilation is to serve the convenience of those who have to apply and interpret the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States.

This undertaking seems to be justified because the Covenant constitutes a complex piece of legislation. Many of its provisions deal with difficult problems and consequently and are not easy to understand, although its provisions are inter-related to an unusual degree, the cross references are not always explicit.

This volume combines in one place the full texts of Public Law 94-241, approving the Covenant, and of two documents closely implementing it, viz., the Technical Agreement regarding Use of Land to be Leased by the United States in the Northern Mariana Islands, concluded pursuant to Section 803(c) of the Covenant, and the Report of the Joint Drafting Committee on the Negotiating History.

The nature and importance of that report are set forth in the memorandum of transmittal:

MEMORANDUM FOR:

The Chairman, Marianas Political Status Commission

The President's Personal Representative for
Micronesian Status Negotiations

SUBJECT:

Report of the Joint Drafting Committee on the
Negotiating History

Pursuant to decisions taken in December during the fifth series of negotiations in Saipan on the future political status of the Marianas, the joint Marianas-United States Drafting Committee has met and has undertaken to record the intention of the parties regarding certain provisions of the Covenant. We submit our report herewith. (Continued)

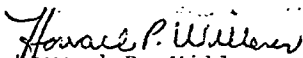
These documents are followed by an annotation of the Covenant. Under each section there are collected first the most rudimentary interpretative materials such as (a) its effective date, (b) the question whether or not it is covered by the mutual consent requirement of Section 105, (c) reference to it in other sections of the Covenant, ~~and~~ (d) definitions of technical terms used in the Covenant, and occasionally Notes drawing attention to other relevant matters.

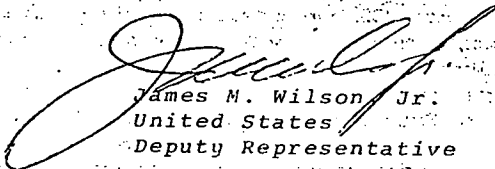
In addition there are collected under each section of the Covenant the pertinent portions of the five most important interpretative documents. They are:

1. The Report of the Joint Drafting Committee on the Negotiating History (Report of the Drafting Committee) referred to above.
2. The Section-by-Section Analysis of the Covenant of the Report of the Senate Committee on Interior


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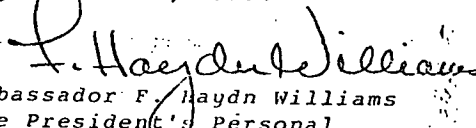
The results of our discussions are reflected in the attached draft negotiating history which is recommended by the Joint Drafting Committee for your consideration. The draft serves to set out our tentative agreement on a number of substantive matters. We recommend that it be approved by both delegations and incorporated into the official record.


Howard P. Willens
Counsel
Marianas Political
Status Commission


James M. Wilson, Jr.
United States
Deputy Representative

Approved by the delegations of the Northern Mariana Islands and the United States on February fifteenth, 1975.


Edward DLG. Pangelinan
Chairman
Marianas Political
Status Commission


Ambassador F. Hayden Williams
The President's Personal
Representative for
Micronesian Status Negotiations

Insular Affairs, S. Rept. 94-433, pp. 65-94
(Senate Committee Report).

3. The Section-by-Section Analysis of the Covenant of the Report of the House Committee on Interior and Insular Affairs, H. Rept. 94-364, pp. 5-19 (House Committee Report).
4. A Section-by-Section Analysis of the Covenant prepared by the Marianas Political Status Commission to explain the Covenant to the Mariana District Legislature and to the electorate of the Northern Mariana Islands (MPSC Memorandum). This memorandum is printed in the House Hearings (To Approve "The Covenant to Establish the Commonwealth of the Northern Mariana Islands" and for other Purposes, Hearings before the Subcommittee on Territorial and Insular Affairs of the Committee on Interior and Insular Affairs, House of Representatives, 94th Cong., 1st Sess.) at pp. 626-665, and in the Senate Hearings (Northern Mariana Islands, Hearing before the Committee on Interior and Insular Affairs, United States Senate, 94th Cong., 1st Sess.) pp. 356-496.
5. A Section-by-Section Analysis of the Covenant prepared by the Administration (Administration Memorandum). This memorandum may be found in the House Hearings at pp. 385-399.

/ The colloquy as the result of which the MPSC Memorandum and the Administration Memorandum were inserted in the House Hearings is as follows: (Continued)

It will be noted that these five documents frequently overlap. Nevertheless it appeared that each of them contained

(Continued)

"Mr. PANGELINAN. . . . I would like to offer for the record, Mr. Chairman, a copy of the section-by-section analysis of the covenant the Commission prepared to explain the provisions of this document to the District Legislature and to the people of the Northern Marianas. This section-by-section analysis was carried in the covenant newsletter during the period of political education prior to the plebiscite, and it was translated into Chamorro and Carolinian so that all of our citizens could understand exactly the terms of the proposed commonwealth relationship.

"Mr. BURTON. Without objection, so ordered. (House Hearings, p. 626).

"Mr. BURTON. . . . The Chair notes that there are no other persons seeking to take advantage of this opportunity to give the subcommittee testimony and, therefore, we can ask Ambassador Williams if he will please come to the witness stand and, at this time, without objection, the Chair will have inserted in the record at the appropriate point the section by section analysis of the Covenant to Establish a Commonwealth of the Mariana Islands prepared by the Marianas Status Commission.

"The Chair and staff have looked at this document and we have no quarrel with the contents thereof and, Mr. Ambassador, the staff similarly noted this to you and you have no quarrel with the contents of the document. Is that correct?

"AMBASSADOR WILLIAMS. I have not read the document, Mr. Chairman, but I do not see any reason why it should not be inserted in the record.

"I would also like to ask the Chair whether or not an explanation of the covenant prepared by Mr. Marcus[e] of the administration could not also be inserted in the record.

"Mr. BURTON. Yes; immediately following this document, wherever it is inserted in the record, will be the document that the Ambassador has referred to." (House Hearings, p. 681).

sufficient individuality to reproduce those explanations in their entirety following the section to which they relate. It is believed that it will facilitate the work of those who have to deal with the Covenant that they do not have to search for this information throughout five separate documents.

But for a few exceptional instances, no interpretative materials outside the three reports and two memoranda have been included in this compilation. This would have required the evaluation of their weight and relevance, processes which are beyond the scope of this compilation. For the same reason no attempt has been made to give an answer to any specific interpretative problem. That task must be left to a later stage in the operation of the Covenant.



Public Law 94-241
94th Congress, H. J. Res. 549
March 24, 1976

Joint Resolution

To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the trusteeship agreement for the former Japanese-mandated islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

48 USC 1681
note.

Whereas the United States, in accordance with the trusteeship agreement and the Charter of the United Nations, has assumed the obligation to promote the development of the peoples 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; and

Whereas the United States, in response to the desires of the people of the Northern Mariana Islands clearly expressed over the past twenty years through public petition and referendum, and in response to its own obligations under the trusteeship agreement to promote self-determination, entered into political status negotiations with representatives of the people of the Northern Mariana Islands; and

Whereas, on February 15, 1975, a "Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" was signed by the Marianas Political Status Commission for the people of the Northern Mariana Islands and by the President's Personal Representative, Ambassador F. Haydn Williams for the United States of America, following which the covenant was approved by the unanimous vote of the Mariana Islands District Legislature on February 20, 1975 and by 78.8 per centum of the people of the Northern Mariana Islands voting in a plebiscite held on June 17, 1975: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the text of which is as follows, is hereby approved.

Covenant to
Establish a
Commonwealth
of the Northern
Mariana Islands
in Political
Union with the
United States of
America.
Congressional
approval.
48 USC 1681
note.

"COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

"Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

"Whereas, the United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

"Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom and democracy; and

"Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire for political union with the United States;

"Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have entered into this Covenant in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political system and to define the future relationship between the Northern Mariana Islands and the United States. This Covenant will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands in a plebiscite, constituting on their part a sovereign act of self-determination.

"ARTICLE I

"POLITICAL RELATIONSHIP"

"SECTION 101. The Northern Mariana Islands upon termination of the Trusteeship Agreement will become a self-governing commonwealth to be known as the 'Commonwealth of the Northern Mariana Islands', in political union with and under the sovereignty of the United States of America.

"SECTION 102. The relations between the Northern Mariana Islands and the United States will be governed by this Covenant which, together with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

"SECTION 103. The people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption.

"SECTION 104. The United States will have complete responsibility for and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands.

"SECTION 105. The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several States the Northern Mariana Islands must be specifically named therein for it to become effective in the Northern Mariana Islands. In order to respect the right of self-government guaranteed by this Covenant the United States agrees to limit the exercise of that authority so that the fundamental provisions of this Covenant, namely Articles I, II and III and Sections 501 and 505, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands.

"ARTICLE II

"CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

"SECTION 201. The people of the Northern Mariana Islands will formulate and approve a Constitution and may amend their Constitution pursuant to the procedures provided therein.

"SECTION 202. The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. The Constitution will be deemed to have been approved six months after its submission to the President on behalf of the Government of the United States unless earlier approved or disapproved. If disapproved the Constitution will be returned and will be resubmitted in accordance with this Section. Amendments to the Constitution may be made by the people of the Northern Mariana Islands without approval by the Government of the United States, but the courts established by the Constitution or laws of the United States will be competent to determine whether the Constitution and subsequent amendments thereto are consistent with this Covenant and with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Submittal
to U.S.
for approval.

"SECTION 203. (a) The Constitution will provide for a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights.

"(b) The executive power of the Northern Mariana Islands will be vested in a popularly elected Governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

"(c) The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature and will extend to all rightful subjects of legislation. The Constitution of the Northern Mariana Islands will provide for equal representation for each of the chartered municipalities of the Northern Mariana Islands in one house of a bicameral legislature, notwithstanding other provisions of this Covenant or those provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands.

"(d) The judicial power of the Northern Mariana Islands will be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The Constitution or laws of the Northern Mariana Islands may vest in such courts jurisdiction over all causes in the Northern Mariana Islands over which any court established by the Constitution or laws of the United States does not have exclusive jurisdiction.

"SECTION 204. All members of the legislature of the Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Covenant, those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

"ARTICLE III

"CITIZENSHIP AND NATIONALITY

"SECTION 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are

declared to be citizens of the United States, except as otherwise provided in Section 302:

"(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

"(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

"(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

"SECTION 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I _____ being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

"SECTION 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

"SECTION 304. Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States of the United States.

"ARTICLE IV

"JUDICIAL AUTHORITY

District Court for the Northern Mariana Islands. Establishment.

"SECTION 401: The United States will establish for and within the Northern Mariana Islands a court of record to be known as the 'District Court for the Northern Mariana Islands'. The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

"SECTION 402. (a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

"(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on

the basis of this subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

"(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

"SECTION 403. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402(c).

"(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

"ARTICLE V

"APPLICABILITY OF LAWS

"SECTION 501. (a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9, Clauses 2, 3, and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with approval of the Government of the Northern Mariana Islands and of the Government of the United States.

"(b) The applicability of certain provisions of the Constitution of the United States to the Northern Mariana Islands will be without prejudice to the validity of and the power of the Congress of the United States to consent to Sections 203, 506 and 805 and the proviso in Subsection (a) of this Section.

USC prec.
title 1.

"SECTION 502. (a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

42 USC 428,
1381.
42 USC 201
note.
50 USC app.
2018.

"(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

"(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

"(3) those laws not described in paragraph (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

"(b) The laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will apply to the activities of the United States Government and its contractors in the Northern Mariana Islands.

"SECTION 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

"(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

"(b) except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

"(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

29 USC 206.
Commission on
Federal Laws.

"SECTION 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands,

Membership.

Reports to
Congress.

the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

"SECTION 505. The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable to the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Covenant or with those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

"SECTION 506. (a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

8 USC 1101 note.

"(h) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

8 USC 1401, 1408. "Immediate relatives." 8 USC 1151.

"(c) With respect to aliens who are 'immediate relatives' (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to 'immediate relative' status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the 'immediate relative' relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

8 USC 1101.

8 USC 1421.

"(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

"ARTICLE VI

"REVENUE AND TAXATION

"SECTION 601. (a) The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.

"(b) Any individual who is a citizen or a resident of the United States, of Guam, or of the Northern Mariana Islands (including a

national of the United States who is not a citizen), will file only one income tax return with respect to his income, in a manner similar to the provisions of Section 935 of Title 26, United States Code.

"(c) References in the Internal Revenue Code to Guam will be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof or of this Covenant.

Additional taxes levied by Island government.

"SECTION 602. The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under Section 601, as it deems appropriate and provide for the rebate of any taxes received by it, except that the power of the Government of the Northern Mariana Islands to rebate collections of the local territorial income tax received by it will be limited to taxes on income derived from sources within the Northern Mariana Islands.

"SECTION 603. (a) The Northern Mariana Islands will not be included within the customs territory of the United States.

"(b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into its territory from any area outside the customs territory of the United States and impose duties on exports from its territory.

"(c) Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

"(d) The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory.

"SECTION 604. (a) The Government of the United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

"(b) The Government of the Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.

U.S. property, exclusion from customs duties.

"SECTION 605. Nothing in this Article will be deemed to authorize the Government of the Northern Mariana Islands to impose any customs duties on the property of the United States or on the personal property of military or civilian personnel of the United States Government or their dependents entering or leaving the Northern Mariana Islands pursuant to their contract of employment or orders assigning them to or from the Northern Mariana Islands or to impose any taxes on the property, activities or instrumentalities of the United States which one of the several States could not impose; nor will any provision of this Article be deemed to affect the operation of the Soldiers and Sailors Civil Relief Act of 1940, as amended, which will be applicable to the Northern Mariana Islands as it is applicable to Guam.

50 USC app. 501.

Northern Mariana Islands Social Security Retirement Fund, transfer to U.S. Treasury.

"SECTION 606. (a) Not later than at the time this Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the Treasury of the United States, to be held in trust as a

separate fund to be known as the 'Northern Mariana Islands Social Security Retirement Fund'. This fund will be administered by the United States in accordance with the social security laws of the Trust Territory of the Pacific Islands in effect at the time of such transfer, which may be modified by the Government of the Northern Mariana Islands only in a manner which does not create any additional differences between the social security laws of the Trust Territory of the Pacific Islands and the laws described in Subsection (b). The United States will supplement such fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund, so long as the rate of contributions thereto also remains comparable.

Administration.

"(b) Those laws of the United States which impose excise and self-employment taxes to support or which provide benefits from the United States Social Security System will upon termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States become applicable to the Northern Mariana Islands as they apply to Guam.

"(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

"(1) the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate Federal Social Security Trust Funds;

"(2) prior contributions by or on behalf of persons domiciled in the Northern Mariana Islands to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate Federal Social Security Trust Funds for the purpose of determining eligibility of those persons in the Northern Mariana Islands for benefits under those laws; and

"(3) persons domiciled in the Northern Mariana Islands who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands will not lose their entitlement and will be eligible for or entitled to benefits under the laws described in Subsection (b).

"SECTION 607. (a) All bonds or other obligations issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

Bonds and other obligations, exemption.

"(b) During the initial seven year period of financial assistance provided for in Section 702, and during such subsequent periods of financial assistance as may be agreed, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation of the property within the Northern Mariana Islands.

"ARTICLE VII

"UNITED STATES FINANCIAL ASSISTANCE

"SECTION 701. The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support will be seven years, as provided in Section 702.

Seven year grant assistance, appropriation authorization.

"SECTION 702. Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:

"(a) \$8.25 million for budgetary support for government operations, of which \$250,000 each year will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands;

"(b) \$4 million for capital improvement projects, of which \$500,000 each year will be reserved for such projects on the Island of Tinian and \$500,000 each year will be reserved for such projects on the Island of Rota; and

"(c) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Federal programs and services, availability.

"SECTION 703. (a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

"(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

26 USC 1401, 3101.

"SECTION 704. (a) Funds provided under Section 702 not obligated or expended by the Government of the Northern Mariana Islands

during any fiscal year will remain available for obligation or expenditure by that Government in subsequent fiscal years for the purposes for which the funds were appropriated.

"(b) Approval of this Covenant by the United States will constitute an authorization for the appropriation of a pro-rata share of the funds provided under Section 702 for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

Pro-rata share,
appropriation
authorization.

"(c) The amounts stated in Section 702 will be adjusted for each fiscal year by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index using the beginning of Fiscal Year 1975 as the base.

"(d) Upon expiration of the seven year period of guaranteed annual direct grant assistance provided by Section 702, the annual level of payments in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

"ARTICLE VIII

"PROPERTY

"SECTION 801. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to real property in the Northern Mariana Islands on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be transferred to the Government of the Northern Mariana Islands. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all personal property on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be distributed equitably in a manner to be determined by the Government of the Trust Territory of the Pacific Islands in consultation with those concerned, including the Government of the Northern Mariana Islands.

"SECTION 802. (a) The following property will be made available to the Government of the United States by lease to enable it to carry out its defense responsibilities:

Leased prop-
erty, U.S.
defense pur-
poses.

"(1) on Tinian Island, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto;

"(2) on Saipan Island, approximately 177 acres (72 hectares) at Tanapag Harbor; and

"(3) on Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island, and the waters immediately adjacent thereto.

"(b) The United States affirms that it has no present need for or present intention to acquire any greater interest in property listed above than that which is granted to it under Subsection 802(a), or to acquire any property in addition to that listed in Subsection (a), above, in order to carry out its defense responsibilities.

"SECTION 803. (a) The Government of the Northern Mariana Islands will lease the property described in Subsection 802(a) to the Government of the United States for a term of fifty years, and the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term.

"(b) The Government of the United States will pay to the Government of the Northern Mariana Islands in full settlement of this lease, including the second fifty year term of the lease if extended under the renewal option, the total sum of \$19,520,600, determined as follows:

- "(1) for that property on Tinian Island, \$17.5 million;
- "(2) for that property at Tanapag Harbor on Saipan Island, \$2 million; and
- "(3) for that property known as Farallon de Medinilla, \$20,600.

The sum stated in this Subsection will be adjusted by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index from the date of signing the Covenant.

Technical Agreement Regarding Use of Land To Be Leased by the U. S.

"(c) A separate Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands will be executed simultaneously with this Covenant. The terms of the lease to the United States will be in accordance with this Section and with the terms of the Technical Agreement. The Technical Agreement will also contain terms relating to the leaseback of property, to the joint use arrangements for San Jose Harbor and West Field on Tinian Island, and to the principles which will govern the social structure relations between the United States military and the Northern Mariana Islands civil authorities.

"(d) From the property to be leased to it in accordance with this Covenant the Government of the United States will lease back to the Government of the Northern Mariana Islands, in accordance with the Technical Agreement, for the sum of one dollar per acre per year, approximately 6,458 acres (2,614 hectares) on Tinian Island and approximately 44 acres (18 hectares) at Tanapag Harbor on Saipan Island, which will be used for purposes compatible with their intended military use.

"(e) From the property to be leased to it at Tanapag Harbor on Saipan Island the Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres (54 hectares) at no cost. This property will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas Campaign. The \$2 million received from the Government of the United States for the lease of this property will be placed into a trust fund, and used for the development and maintenance of the park in accordance with the Technical Agreement.

"SECTION 804. (a) The Government of the United States will cause all agreements between it and the Government of the Trust Territory of the Pacific Islands which grant to the Government of the United States use or other rights in real property in the Northern Mariana Islands to be terminated upon or before the effective date of the Section. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to any real property with respect to which the Government of the United States enjoys such use or other rights will be transferred to the Government of the Northern Mariana Islands at the time of such termination. From the time such right, title and interest is so transferred the Government of the Northern Mariana Islands will assure the Government of the United States the continued use of the real property then actively used by the Government of the United States for civilian governmental purposes on terms comparable to those enjoyed by the Government of the United

States under its arrangements with the Government of the Trust Territory of the Pacific Islands on the date of the signature of this Covenant.

"(b) All facilities at Isely Field developed with federal aid and all facilities at that field usable for the landing and take-off of aircraft will be available to the United States for use by military and naval aircraft, in common with other aircraft, at all times without charge, except, if the use by military and naval aircraft shall be substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities so used may be charged at a rate established by agreement between the Government of the Northern Mariana Islands and the Government of the United States.

Isely Field facilities, availability to U.S.

"SECTION 805. Except as otherwise provided in this Article, and notwithstanding the other provisions of this Covenant, or those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

Landholding restrictions.

"(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; and

"(b) may regulate the extent to which a person may own or hold land which is now public land.

"SECTION 806. (a) The United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred to it under this Covenant, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property.

"(b) The United States may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain. No interest in real property will be acquired unless duly authorized by the Congress of the United States and appropriations are available therefor.

"(c) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union. The power of eminent domain will be exercised within the Commonwealth only to the extent necessary and in compliance with applicable United States laws, and with full recognition of the due process required by the United States Constitution.

Power of eminent domain.

USC prec. title 1.

"ARTICLE IX

"NORTHERN MARIANA ISLANDS REPRESENTATIVE AND CONSULTATION

"SECTION 901. The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

Special representatives, report.

"SECTION 902. The Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of every period of such financial assistance.

"SECTION 903. Nothing herein shall prevent the presentation of cases or controversies arising under this Covenant to courts established by the Constitution or laws of the United States. It is intended that any such cases or controversies will be justiciable in such courts and that the undertakings by the Government of the United States and by the Government of the Northern Mariana Islands provided for in this Covenant will be enforceable in such courts.

Promotion of local tourism.

"SECTION 904. (a) The Government of the United States will give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands and will provide opportunities for the effective presentation of such views to no less extent than such opportunities are provided to any other territory or possession under comparable circumstances.

"(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

"(c) On its request the Northern Mariana Islands may participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances.

“ARTICLE X

“APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

“SECTION 1001. (a) This Covenant will be submitted to the Mariana Islands District Legislature for its approval. After its approval by the Mariana Islands District Legislature, this Covenant will be submitted to the people of the Northern Mariana Islands for approval in a plebiscite to be called by the United States. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet such other qualifications, including timely registration, as are promulgated by the United States as administering authority will be eligible to vote in the plebiscite. Approval must be by a majority of at least 55% of the valid votes cast in the plebiscite. The results of the plebiscite will be certified to the President of the United States.

“(b) This Covenant will be approved by the United States in accordance with its constitutional processes and will thereupon become law.

Covenant approval by U.S.

“SECTION 1002. The President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement, or the date on which the Trusteeship Agreement will terminate, and the establishment of the Commonwealth in accordance with this Covenant. Any determination by the President that the Trusteeship Agreement has been terminated or will be terminated on a day certain will be final and will not be subject to review by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Mariana Islands or the United States.

Trusteeship Agreement termination; establishment of Commonwealth, proclamation.

“SECTION 1003. The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

Effective dates.

“(a) Sections 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

“(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

“(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

“SECTION 1004. (a) The application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

“(b) The Constitution of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Covenant specified in Subsection 1003(b) become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement such provision will be ineffec-

Constitution of the Northern Mariana Islands, effective date.

March 24, 1976

tive until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands the Constitution will become effective in its entirety in accordance with its terms as the Constitution of the Commonwealth of the Northern Mariana Islands.

Definitions.

"Section 1005. As used in this Covenant:

"(a) 'Trusteeship Agreement' means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

"(b) 'Northern Mariana Islands' means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

"(c) 'Government of the Northern Mariana Islands' includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

"(d) 'Territory or possession' with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

"(e) 'Domicile' means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

"Signed at Saipan, Mariana Islands on the fifteenth day of February, 1975.

"For the people of the Northern Mariana Islands:

EDWARD DLG. PANGELINAN,
Chairman, Marianas
Political Status Commission.
VICENTE N. SANTOS,
Vice Chairman, Marianas
Political Status Commission.

"For the United States of America:

Ambassador F. HAYDN WILLIAMS,
Personal Representative of the
President of the United States.

"Members of the Marianas Political Status Commission:

JUAN LG. CABRERA.
VICENTE T. CAMACHO.
JOSE R. CRUZ.
BERNARD V. HOPSCHEIDER.
BENJAMIN T. MANGIONA.
DANIEL T. MUNA.
DR. FRANCISCO T. PALACIOS.
JOAQUIN I. PANGELINAN.
MANUEL A. SABLAN.
JOANNES B. TAIMANAO.
PEDRO A. TENORIO."

March 24, 1976

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Pub. Law 94-241

Sec. 2. It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within ten years from the date of the enactment of this resolution, the President of the United States should request, on behalf of the United States, the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

Special representatives, appointment by President, report to Congress.
48 USC 1681 note.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-364 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 94-433 (Comm. on Interior and Insular Affairs) and No. 94-596 (Committees on Foreign Relations and Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Feb. 24, considered and passed Senate, amended.

Mar. 11, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 24, Presidential statement.

90 STAT. 279

16648

COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA
ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

MPSC Memorandum

TITLE

The Northern Marianas political status agreement is called a "Covenant". A covenant is a binding agreement like a contract or a compact and the title used for this agreement is not intended to have independent legal significance. This title seems appropriate because the relationship between the United States and the Northern Marianas will be a permanent one, which in its fundamental respects will not be able to be changed by one party without the consent of the other. The documents which created the only existing commonwealth in the American political family, the Commonwealth of Puerto Rico, were known as a compact, a term which is similar to the one chosen for this document.

The purpose of the Covenant is to establish a Commonwealth of the Northern Mariana Islands. A commonwealth is the name given to 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. The commonwealth relationship embodied in the Covenant is patterned after the relationship between the United States and Puerto Rico as well as the relationship between the United States and the Territory of Guam, though it contains a number of significant features not present in either of those relationships.

The MPSC studied a variety of possible relationships before choosing the commonwealth relationship. In evaluating the alternatives, the Commission was governed by the provisions of District Law No. 3-124, approved on May 17, 1972, which instructed the Commission to seek a "close political relationship" with the United States which was "different from that which has been tentatively chosen by the people of the remainder of the districts of the Trust Territory of the Pacific Islands." The Commission concluded that the commonwealth relationship is the most satisfactory form of a close and enduring association with the United States available to the people of the Northern Marianas. The commonwealth relationship contained in the Covenant provides assurances of local self-government which would not be available under a traditional territorial relationship. On the other hand, the commonwealth relationship assures a permanent political union with the United States, permits the people of the Northern Marianas to become United States citizens, and provides other benefits which would not be available if a looser and less permanent relationship, such as free association, were adopted.

Note: For discussion of the term "Commonwealth" see also discussion in Senate Committee Report and the Administration Memorandum on Section 101.

Preamble

Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

Whereas, the United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom and democracy; and

Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire for political union with the United States;

Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have entered into this Covenant in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political system and to define the future relationship between the Northern Mariana Islands and the United States. This Covenant will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands in a plebiscite, constituting on their part a sovereign act of self-determination.

MPSC Memorandum

A preamble is traditional in fundamental legal documents such as the Covenant. The Preamble sets out a few of the most important reasons which led to the preparation of the Covenant. The first clause notes that under the Charter of the United Nations and under the Trusteeship Agreement itself the people of the Northern Marianas are guaranteed the right freely to express their wishes for self-government or independence. The second clause states that the United States supports the desire of the people of the Northern Marianas to exercise their inalienable right of self-determination. The third clause emphasizes that the people of the Northern Marianas and the people of the United States share the goals and values found in the American system of government, based on the principles of government by consent, individual freedom and democracy. Because of these shared goals and values the people of the Northern Marianas and the people of the United States will enter into a permanent political union. Finally, the fourth clause takes note of the fact that for over 20 years the people of the Northern Marianas have expressed their desire for political union with the United States in public petition and in referendum. It is this desire for a close and permanent political relationship with the United States that led to the establishment of the MPSC.

The Preamble concludes with the "Now, Therefore" clause. This clause states that for the reasons set forth in the introductory clauses, the MPSC, having been duly appointed by the District Legislature to represent the people of the Northern Marianas in the political status negotiations, and the Personal Representative of the President of the United States, have entered into the Covenant. The clause then states the essential purposes of the Covenant: "to establish a self-governing Commonwealth for the Northern Mariana Islands within the American political

[For the definition of the term "Trusteeship Agreement" and "Northern Mariana Islands" see Section 1005 (a) and (b).]

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system and to define the future relationship between the Northern Mariana Islands and the United States." The clause also states that the Covenant will be binding on both the Northern Marianas and the United States after it is approved by the Mariana Islands District Legislature, by the people of the Northern Marianas in the plebiscite, and by the United States. The mechanism by which the Covenant is to be approved is spelled out in detail in Section 1001. Once the Covenant becomes mutually binding, the political relationship between the United States and the Northern Marianas will be permanent, and neither side will be able to alter it in any fundamental respect without the consent of the other. Finally, and fundamentally, this clause of the Preamble recognizes that the approval of the Covenant by the people of the Northern Marianas will constitute on their part a sovereign act of self-determination—an exercise of their right freely to express their wishes for self-government or independence and to determine their own political future.

ARTICLE I

Political Relationship

Section 101. *Section 101* The Northern Mariana Islands upon termination of the Trusteeship Agreement will become a self-governing commonwealth to be known as the "Commonwealth of the Northern Mariana Islands", in political union with and under the sovereignty of the United States of America.

Effective Date: See Section 1003(c).

Mutual Consent Requirement: Yes.

Referred to in Section 105.

For the definition of the term "Northern Mariana Islands", see Section 1005(b)

Drafting Committee Report:

Section 101. Inasmuch as the definition of the term "Northern Mariana Islands" in Subsection 1005(b) is incorporated in Article I, it is understood that the geographic integrity of the Northern Mariana Islands is subject to the mutual consent requirement of Section 105.

Senate Committee Report:

ARTICLE I—POLITICAL RELATIONSHIP

Section 101.—This section constitutes the basic provision of the Covenant. It provides (1) that the Northern Mariana Islands will be under sovereignty of the United States, (2) that they will be in political union with the United States, and (3) that they will be a self-governing commonwealth, when the Trusteeship Agreement between the United States and the Security Council of the United Nations terminates. The section establishes beyond any question that the Northern Mariana Islands will be subject to the sovereignty of the United States. Pursuant to section 105 of the Covenant the political union between the United States and the Northern Mariana Islands can be dissolved only by mutual consent.

The term "commonwealth" is not a word describing any single kind of political relationship or status. A number of the States of the Union, including Virginia, Massachusetts and Kentucky, have the official name of Commonwealth. The same title is or was held by political entities as dissimilar as England under the Cromwells, Australia, Puerto Rico, and the Philippines during the ten-year period preceding their independence. The choice of the term "commonwealth" for the Northern Mariana Islands therefore does not denote any specific status, in particular it does not connote identity with the title held by the Commonwealth of Puerto Rico. The commonwealth status of the Northern Mariana Islands was developed on the basis of their particular needs drawing on the experience of all other territories of the United States, especially those of Guam, with the advantages and disadvantages of which the people of the Northern Mariana Islands have first hand acquaintance.

The Committee has been informed during its hearings that the Administration expects to have concluded status agreements with the peoples of the Trust Territory so that the Trusteeship Agreement can be terminated by 1980 or 1981. Most of the provisions of the Covenant, however, will become effective within 180 days after the approval of the Covenant and the Constitution of the Northern Mariana Islands at which time a "new" Government although not yet the Commonwealth Government will come into being. Section 1002(b). The principal exceptions are those provisions of the Covenant which are inconsistent with the Trusteeship Agreement, such as U.S. sovereignty and U.S. citizenship. See Section 1004.

Inasmuch as the definition of the term "Northern Mariana Islands" in Subsection 1005(b) is incorporated in Article I, it is understood that the geographic integrity of the Northern Mariana Islands is subject to the mutual consent requirement of Section 105.

House Committee Report:

Article I—Political Relationship

Section 101.—This section specifies that the United States will have sovereignty with respect to the Commonwealth of the Northern Mariana Islands as it does with respect to every state and territory.

The section also provides that the Commonwealth of the Northern Marianas will not come into being until the termination of the Trusteeship Agreement.

MPSC Memorandum:

ARTICLE I—POLITICAL RELATIONSHIP

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

Section 101

This Section provides that the Northern Marianas will, upon termination of the Trusteeship Agreement, become a self-governing commonwealth in political union with and under the sovereignty of the United States. The Northern Marianas will then be known as the "Commonwealth of the Northern Mariana Islands." This Section established the basic relationship between the United States and the Northern Marianas, and much of the rest of the Covenant is devoted to spelling out in more detail the commonwealth relationship.

The Commonwealth of the Northern Mariana Islands will be self-governing. This means that the people will determine their own form of government and the manner in which they will govern themselves with respect to local affairs. The right of the people to local self-government is specifically recognized again in Section 103 of the Covenant, and Article II provides for a commonwealth constitution which will spell out the manner in which the people will govern themselves.

The political union between the Northern Mariana Islands and the United States will be a permanent one. The political union can be dissolved only with the consent of both the Government of the United States and the Government of the Northern Mariana Islands. It is important to emphasize that the political union which is established by the Covenant is one between the *Northern Marianas* and the United States. The term "Northern Mariana Islands" is defined in Section 1005(b) of the Covenant to mean the specific geographic area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands. Thus the United States will not be able to force the Northern Marianas into any political relationship other than that stated in the Covenant without the permission of the people of the Northern Marianas. In particular, this means that there will be no reunification of the Northern Mariana Islands with Guam unless, among other things, the people of the Northern Mariana Islands specifically approve.

The United States will have sovereignty, that is, ultimate political authority, with respect to the Northern Mariana Islands. The United States has sovereignty with respect to every state, every territory and the Commonwealth of Puerto Rico. United States sovereignty is an essential element of a close and enduring political relationship with the United States, whether in the form of statehood, in the traditional territorial form, or as a commonwealth. The kind of relationship with the United States which the people of the Northern Marianas have said they desire and which is reflected in the legislation creating the MPSC, necessarily involves United States sovereignty. United States sovereignty is not inconsistent with the exercise of the right of local self-government by the people of the Northern Marianas. Section 103 of the Covenant specifically recognizes that right. Moreover, the states and the Commonwealth of Puerto Rico, and to a great extent even the territories, have very substantial powers of local self-government. The people within these areas determine local policies without undue interference, notwithstanding the ultimate political authority of the central government. The same will be true of the Commonwealth of the Northern Marianas.

The Commonwealth of the Northern Marianas will not come into being until the termination of the Trusteeship Agreement. The United States has publicly stated that it plans to terminate the Trusteeship Agreement by 1981. It has also stated that it believes that the entire Trusteeship Agreement should be terminated

at one time for all of Micronesia, and that there will be no partial termination for the Marianas alone. The Covenant is structured in a way, however, which assures that the people of the Northern Marianas will have virtually all of the benefits of the commonwealth relationship prior to termination of the Trusteeship Agreement. Almost all of the provisions of the Covenant will come into effect prior to termination, including provisions assuring the right of local self-government, establishing rights to a local constitution and a popularly-elected governor and legislature and providing direct and indirect financial assistance. The portions of the Covenant which will be delayed until termination are provisions relating to United States citizenship and nationality, to United States sovereignty, and to the establishment of a commonwealth in political union with the United States. These matters are important, but the United States believes that it would be inconsistent with the Trusteeship Agreement for these provisions to come into effect prior to termination. The effective dates of the various provisions and the timing scheme which the Covenant envisions are discussed in more detail under Section 1003.

Administration Memorandum:

SECTION 101

This section constitutes the basic provision of the Covenant. It provides (1) that the Northern Mariana Islands will be under sovereignty of the United States, (2) that they will be in political union with the United States, and (3) that they will be a self-governing commonwealth, when the Trusteeship Agreement between the United States and the Security Council of the United Nations terminates. The section establishes beyond any question that the Northern Mariana Islands will be subject to the sovereignty of the United States. Pursuant to section 105 of the Covenant the political union between the United States and the Northern Mariana Islands can be dissolved only by mutual consent.

The term "commonwealth" is not a word describing any single kind of political relationship or status. A number of the States of the Union, including Virginia, Massachusetts and Kentucky, have the official name of Commonwealth. The same title is or was held by political entities as dissimilar as England under the Cromwells, Australia, Puerto Rico, and the Philippines during the ten-year period preceding their independence. The choice of the term "commonwealth" for the Northern Mariana Islands therefore does not denote any specific status, in particular not identity with the one held by the Commonwealth of Puerto Rico. The commonwealth status of the Northern Mariana Islands was developed on the basis of their particular needs drawing on the experience of all other territories of the United States, especially those of Guam, with the advantages and disadvantages of which the people of the Northern Mariana Islands have first-hand acquaintance.

It is hoped that the Trusteeship Agreement will terminate in 1980 or 1981. Most of the provisions of the Covenant, however, will become effective within 180 days after the approval of the Covenant and the Constitution of the Northern Mariana Islands at which time a "new" Government although not yet the Commonwealth Government will come into being. Section 1002(b). The principal exceptions are those provisions of the Covenant which are inconsistent with the Trusteeship Agreement, such as U.S. sovereignty and U.S. citizenship. See Section 1004.

Section 102

~~Section 102.~~ The relations between the Northern Mariana Islands and the United States will be governed by this Covenant which, together with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

Effective Date: See Section 1003(b) ~~and 1003(c)~~.

Mutual Consent Requirement: Yes.

Referred to in Sections 105, 1003(b).

For the definition of the term "Northern Mariana Islands" see Section 1005 (b).

Senate Committee Report:

~~Section 102.~~—This section provides that: the relations between the Northern Marianas and the United States will be governed by the Covenant, and that the Covenant, together with the applicable provisions of the Constitution, treaties and laws of the United States, will be the supreme law of the Northern Mariana Islands.

This provision is analogous to the Supremacy Clause (Article VI, Section 2) of the Constitution of the United States. However, since the Northern Mariana Islands will not be incorporated into the United States, this section has been limited to the provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Section 102 does two important things. First, it provides that the relations between the Northern Marianas and the United States will be governed by the Covenant. This assures that the Covenant is the fundamental document which must be followed by both sides. Under Section 105 this fundamental aspect of the commonwealth relationship cannot be changed without mutual consent. Section 902 makes provision for periodic meetings between representatives of the Northern Marianas and the United States to review the relationship established by the Covenant. These meetings will provide a mechanism for review of the terms of the Covenant itself and the working of the entire commonwealth relationship.

The second important aspect of Section 102 is that it provides that the Covenant, together with the applicable provisions of the Constitution, treaties and laws of the United States, will be the supreme law of the Northern Mariana Islands. In this respect Section 102 is similar to Article VI, Clause 2 of the Constitution of the United States, which makes the Constitution, treaties and laws of the United States the supreme law in every state of the United States. Federal law will control in the case of a conflict between local law (even a state's constitution) and a valid federal law. Federal law is also supreme, of course, in the territories and the Commonwealth of Puerto Rico.

House Committee Report:

~~Section 102.~~—This section provides that: the relations between the Northern Marianas and the United States will be governed by the Covenant, and that the Covenant, together with the applicable provisions of the Constitution, treaties and laws of the United States, will be the supreme law of the Northern Mariana Islands.

MPSC Memorandum:

Section 102

Section 102 does two important things. First, it provides that the relations between the Northern Marianas and the United States will be governed by the Covenant. This assures that the Covenant is the fundamental document which must be followed by both sides. Under Section 105 this fundamental aspect of the commonwealth relationship cannot be changed without mutual consent. Section 102 makes provision for periodic meetings between representatives of the Northern Marianas and the United States to review the relationship established by the Covenant. These meetings will provide a mechanism for review of the terms of the Covenant itself and the working of the entire commonwealth relationship.

The second important aspect of Section 102 is that it provides that the Covenant, together with the applicable provisions of the Constitution, treaties and laws of the United States, will be the supreme law of the Northern Mariana Islands. In this respect Section 102 is similar to Article VI, Clause 2 of the Constitution of the United States, which makes the Constitution, treaties and laws of the United States the supreme law in every state of the United States. This means that federal law will control in the case of a conflict between local law (even a state's constitution) and a valid federal law. Federal law is also supreme, of course, in the territories and the commonwealth of Puerto Rico. Section 102 is a fundamental part of a close and enduring political relationship between the United States and the Northern Marianas. It should be emphasized that the Constitution, treaties and laws of the United States will not override the Covenant, since all are supreme. The supremacy concept embodied in Section 102 cannot be altered without mutual consent.

Administration Memorandum:

SECTION 102

This provision is analogous to the Supremacy Clause (Article VI, Section 2) of the Constitution of the United States. However, since the Northern Mariana Islands will not be incorporated into the United States, this section has been limited to the provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Section 103

Section 103. *The people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption.*

Effective Date: See Section 1003(b) *and 1004.*

Mutual Consent Requirement: Yes.

Referred to in Sections 105 1003(b).

For the definition of the term "Northern Mariana Islands" see Section 1005 (c).

Drafting Committee Report:

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

Senate Committee Report:

Section 103.—This section gives the people of the Northern Mariana Islands the right of self-government. This, however, does not mean that the "internal affairs" of the Northern Mariana Islands are immune from congressional legislation. Congress has that power under Section 101 (U.S. sovereignty); Section 102 (supremacy) and Section 105 (power to enact legislation which could not be made applicable to the States). The only limitations on the plenary power of Congress to legislate with respect to the Northern Mariana Islands under Article IV, Section 3, Clause 2 of the Constitution, are the self-imposed ones contained in the second sentence of Section 105.

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

House Committee Report:

Section 103.—Section 103 guarantees to the people of the Northern Marianas the right of self-government, and assures that they can govern themselves with respect to their internal affairs in accordance with a constitution of their own adoption.

MPSC Memorandum:

Section 103

Section 103 guarantees to the people of the Northern Marianas the right of self-government, and assures that they can govern themselves with respect to their internal affairs in accordance with a constitution of their own adoption. This is a guarantee of local self-government which has not been made by the United States to territories such as Guam and the Virgin Islands. Under a territorial relationship, the people do not have their own constitution and any right of local self-government is dependent upon an organic act, which can be amended unilaterally by Congress. Under the commonwealth relationship embodied in the Covenant, on the other hand, the people have the right of self-government explicitly, which under Section 105 cannot be altered without mutual consent. A further protection for the people of the Northern Marianas is found in the fact that Section 903 of the Covenant permits the federal courts to decide disputes arising under the Covenant and specifically provides that the commitments made in the Covenant by the Government of the United States (as well as those of the Government of the Northern Marianas) will be enforceable by the federal courts.

The fact that the people of the Northern Marianas will have the right of local self-government and will govern themselves under their own constitution means that the Northern Mariana Islands will not be an agency or instrumentality of the United States Government. A territory is merely part of the United States Government and is subject to the direction of the Congress and Executive Branch of the government. The Northern Mariana Islands government will be an independent government, like that of the states. For the same reasons, the Government of the Northern Mariana Islands will have sovereign immunity, so that it cannot be sued on the basis of its own laws without its consent. In this regard, also, the local government will be like the government of a state.

Administration Memorandum:

SECTION 103

This section gives the people of the Northern Mariana Islands the right of self-government. This, however, does not mean that the "internal affairs" of the Northern Mariana Islands are immune from congressional legislation. Congress has that power under Section 101 (U.S. sovereignty); Section 102 (supremacy) and Section 105 (power to enact legislation which could not be made applicable to the States). The only limitations on the plenary power of Congress to legislate with respect to the Northern Mariana Islands under Article IV, Section 3, Clause 2 of the Constitution, are the self-imposed ones contained in the second sentence of Section 105.

Section 104

~~Section 104.~~ The United States will have complete responsibility for and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands.

Effective Date: See Section 1003(c).

Mutual Consent Requirement: Yes.

Referred to in Section 105.

For the definition of the term "Northern Mariana Islands," see Section 1005(f).

Drafting Committee Report:

Section 104. Reference to the federal powers mentioned in this Section is not intended to derogate from the sovereignty vested in the United States by Section 101 or the legislative powers vested in the United States by Section 105.

Senate Committee Report:

Section 104.—This section gives the United States the exclusive responsibility and authority in the fields of foreign relations and national defense. In Section 904, the Government of the United States agrees to give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters and agrees to permit the Northern Mariana Islands to participate in international organizations concerned with social, economic and similar matters to the extent that such participation is permitted to any other territory or possession of the United States.

Even if Section 104 were not included in the Covenant the fact that the United States will have sovereignty with respect to the Commonwealth would undoubtedly have been taken to mean that it had the authority to conduct foreign affairs and defense activities. Throughout the American political family, foreign affairs and defense are a federal responsibility, as is made explicit in the U.S. Constitution.

House Committee Report:

Section 104.—This section provides that the United States will have complete responsibility for and authority with respect to the foreign affairs and defense of the Northern Marianas.

MPSC Memorandum:

Section 104

This Section provides that the United States will have complete responsibility for and authority with respect to the foreign affairs and defense of the Northern Marianas. This Section has been included in order to make very clear that the United States will have this authority. The concept of sovereignty is closely tied to foreign affairs and defense matters. Even if Section 104 were not included in the Covenant the fact that the United States will have sovereignty with respect to the Commonwealth would undoubtedly have been taken to mean that it had the authority to conduct foreign affairs and defense activities. Throughout the American political family, foreign affairs and defense are a federal responsibility, as is made explicit in the U.S. Constitution. Under Section 904, the Government of the United States will give sympathetic consideration to the views of the Northern Marianas government on international matters and will permit the Northern Marianas to participate in international organizations concerned with social, economic and similar matters to the extent that participation is permitted by the Commonwealth of Puerto Rico or any territory of the United States.

Administration Memorandum:

SECTION 104

This section gives the United States the exclusive responsibility and authority in the fields of foreign relations and national defense. In Section 904, the Government of the United States agrees to give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters and agrees to permit the Northern Mariana Islands to participate in international organizations concerned with social, economic and similar matters to the extent that such participation is permitted to any other territory or possession of the United States.

Section 105

~~Section 105.~~ The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several States the Northern Mariana Islands must be specifically named therein for it to become effective in the Northern Mariana Islands. In order to respect the right of self-government guaranteed by this Covenant the United States agrees to limit the exercise of that authority so that the fundamental provisions of this Covenant, namely Articles I, II and III and Sections 501 and 805, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: Yes.

Referred to in Sections 1003(a)

Drafting Committee Report:

[Mariana Islands, see Section 1005 (b) and (c)]

Section 105. It is intended that prior to the termination of the Trusteeship Agreement the consent of the Northern Mariana Islands envisaged by this Section may not be given without the consent of the popularly elected legislature. It is understood that the authority of the United States under this Section will be exercised through, among other provisions of the United States Constitution, Article IV, Section 3, Clause 2.

Senate Committee Report:

Section 105.—This section provides that the United States may enact legislation applicable to the Northern Mariana Islands in accordance with its Constitutional processes. There are two exceptions to this rule. One is formal, the other substantive. The formal one is that legislation which could not be made applicable to the several States shall not be applicable to the Northern Mariana Islands unless they are specifically mentioned therein. The purpose of this provision is to prevent any inadvertent interference by Congress with the internal affairs of the Northern Mariana Islands to a greater extent than with those of the several States.

Under the second limitation the United States agrees to limit the exercise of its legislative authority over the Northern Mariana Islands to the extent that certain fundamental provisions of the Covenant may be modified only by the mutual consent of the Government of the United States and the Government of the Northern Mariana Islands. The idea underlying this provision is that the political status of the Northern Mariana Islands has been agreed upon by a negotiating process and Congress undertakes not to modify its fundamental provisions unilaterally. This obligation does not derogate from United States sovereignty. To the contrary, it is an incident thereof. *Perry v. United States*, 294 U.S. 330, 353 (1935). The fundamental provisions of the Covenant subject to the mutual consent requirement are: Article I (Political Relationship); Article II, (Constitution of the Northern Mariana Islands); Article III (Citizenship and Nationality); Section 501 (Applicability of the Constitution of the United States to the Northern Mariana Islands); and Section 805 (Limitation of the Right to Acquire Permanent and Long-term Interests in Land to Persons of Northern Mariana Islands descent). It is intended that prior to the termination of the Trusteeship Agreement the consent of the Northern Mariana Islands envisaged by this Section may not be given without the consent of the popularly elected legislature. It is understood that the authority of the United States under this Section will be exercised through, among other provisions of the United States Constitution, Article IV, Section 3, Clause 2.

House Committee Report:

Section 105.—Section 105 provides that laws which Congress could not also make applicable to a state cannot be made applicable to the Northern Marianas unless the Northern Marianas is specifically named in the legislation, so as to insure that legislation is not unintentionally applied to the Northern Marianas. Also, specified provisions of the Covenant may be modified only with the consent both of the Government of the Northern Marianas and of the Government of the United States.

MPSC Memorandum:

Section 105

Section 105 deals with two very important matters. One is the legislative authority of the United States. The other is the guarantee that the fundamental provisions of the Covenant will not be changed without mutual consent.

Under Section 105 the United States will be able to enact legislation which will affect the Northern Marianas. This legislation will have to be enacted in accordance with the regular constitutional processes of the United States Government, which include approval by Congress and by the President. All states and territories, as well as the Commonwealth of Puerto Rico, are subject to federal legislation. However, one difference between the Commonwealth of Puerto Rico and the territories on the one hand, and the states on the other, is that the scope of the federal government's legislative authority with respect to the Commonwealth and the territories is somewhat broader than it is with respect to the states. This is a result of Article IV, Section 3, Clause 2 of the United States Constitution, which gives to the Congress the authority to enact laws which will affect matters within the Commonwealth of Puerto Rico or the territories. This Constitutional provision has been interpreted to permit Congress to enact laws which affect matters in the Commonwealth or a territory even though Congress could not affect identical matters within a state. From the point of view of the United States, the existence of the power under Article IV, Section 3, Clause 2 is a fundamental part of a close and permanent relationship with any political entity which is not a state of the union. Indeed, Congress must depend to a large extent on this provision of the Constitution to affect the Commonwealth or the territories at all, because many other provisions of the Constitution grant Congress power only with respect to states.

As a practical matter, there is little difference between the manner in which Congress deals with the Commonwealth of Puerto Rico as contrasted with the states. This is so because the powers of the federal government with respect to the states are extremely broad, and because as a matter of policy Congress does not attempt to affect local affairs within the Commonwealth. However, since the power of the Congress with respect to a commonwealth, such as the Commonwealth of the Northern Marianas, is, at least in theory, broader than Congress' power with respect to a state, special precautions have been taken in Section 105. Article IV, Section 3, Clause 2 will continue to be the mechanism through which the Congress will legislate with respect to the Northern Marianas. But Section 105 provides that laws which Congress could not also make applicable to a state cannot be made applicable to the Northern Marianas, unless the Northern Marianas is specifically named in the legislation. This assures that Congress will exercise its special authority under Article IV, Section 3, Clause 2 purposefully, after taking into account the particular circumstances existing in the Northern Marianas. The Northern Marianas will have a Resident Representative in Washington under Section 901 who can watch out for such matters and bring to the attention of the Congress and the Executive Branch of the federal government the particular concerns of the Northern Marianas in this regard.

It is the view of the MPSC that as a practical matter this wording of Section 105, combined with the recognition of the right of local self-government in Section 101 and the other provisions of Article I, provide adequate assurances that federal legislation will not be made applicable unless it is appropriate. Much federal

Administration Memorandum:

SECTION 106

The main point of this section is that the United States may enact legislation applicable to the Northern Mariana Islands in accordance with its Constitution processes. There are two exceptions to this rule. One is formal, the other substantive. The formal one is that legislation which could not be made applicable to

the several States shall not be applicable to the Northern Mariana Islands unless they are specifically mentioned therein. The purpose of this provision is to prevent any inadvertent interference by Congress with the internal affairs of the Northern Mariana Islands to a greater extent than with those of the several States.

Under the second limitation the United States agrees to limit the exercise of its legislative authority over the Northern Mariana Islands to the extent that certain fundamental provisions of the Covenant may be modified only by the mutual consent of the Government of the United States and the Government of the Northern Mariana Islands. The idea underlying this provision is that the political status of the Northern Mariana Islands has been agreed upon by a negotiating process and Congress undertakes not to modify its fundamental provisions unilaterally. This obligation does not derogate from United States sovereignty. To the contrary, it is an incident thereof. *Perry v. United States*, 294 U.S. 330, 353 (1935). The fundamental provisions of the Covenant subject to the mutual consent requirement are: Article I (Political Relationship); Article II, (Constitution of the Northern Mariana Islands); Article III (Citizenship and Nationality); Section 501 (Applicability of the Constitution of the United States to the Northern Mariana Islands); and Section 805 (Limitation of the Right to Acquire Permanent and Long-term Interests in Land to Persons of Northern Mariana Islands descent).

ARTICLE II

Q

Constitution of the Northern Mariana Islands

Section 201

~~Section 201.~~ The people of the Northern Mariana Islands will formulate and approve a Constitution and may amend their Constitution pursuant to the procedures provided therein.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: Yes.

Referred to in Sections 105 1003(a).

Full definition of *the Northern Mariana Islands* see Section 1005 (c).

Senate Committee Report:

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 Marianas the right to adopt and change their own constitution and form of government.

Section 201.—Under this provision the people of the Northern Mariana Islands will have the right to adopt and amend their own Constitution. The people of Puerto Rico were given the same right. 48 U.S.C. 731b. The basic law of Guam and Virgin Islands, respectively, however, is an Organic Act.

It is anticipated that a Constitution Convention will be held after the Covenant has been approved by the people of the Northern Marianas and by the United States. Prior to the convention itself, studies will have to be undertaken to prepare for it. The United States will provide a total of \$1.5 million in transition funds. These funds were authorized by P.L. 94-27 but may be expended only upon approval of the Covenant by the Congress.

Part of this money will be used for the preparation for and the holding of the constitutional convention, as well as for the referendum on the constitution which will take place after the convention has completed its work. After the constitution has been approved by the people of the Northern Marianas it will be submitted for approval to the United States, as is explained under Section 202.

House Committee Report:

Article II—Constitution of the Northern Mariana Islands

Section 201.—This section provides that the people of the Northern Marianas will formulate and approve their own constitution and that they may amend their constitution pursuant to procedures which will be established by that document.

MPSC Memorandum:

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 Marianas the right to adopt and change their own constitution and form of government.

Section 201

This Section provides that the people of the Northern Marianas will formulate and approve their own constitution and that they may amend their constitution pursuant to procedures which will be established by that document. The Commonwealth of Puerto Rico has its own constitution, but Guam and the Virgin Islands and the territories do not. One of the distinguishing characteristics of a commonwealth relationship with the United States is the guarantee that the people may choose their own form of government, rather than a form of government which is imposed upon them by the Congress of the United States in an organic act.

It is anticipated that a Constitution Convention will be held after the Covenant has been approved by the people of the Northern Marianas. Prior to the convention itself, studies will have to be undertaken to prepare for it. The United States will provide a total of \$1.5 million in transition funds. Part of this money will be used for the preparation for and the holding of the constitutional convention, as well as for the referendum on the constitution which will take place after the convention has completed its work. After the constitution has been approved by the people of the Northern Marianas it will be submitted for approval to the United States, as is explained under Section 202. After the United States has approved the Covenant and the Constitution, the new Government of the Northern Marianas will come into being in accord with the provisions of the Constitution, even if the Trusteeship has not yet been terminated. This aspect of the timing issue is discussed under Section 1003.

ADMINISTRATION MEMORANDUM:

SECTION 201

Under this provision the people of the Northern Mariana Islands will have the right to adopt and amend their own Constitution. The people of Puerto Rico were given the same right. 48 U.S.C. 731b. The basic law of Guam and the Virgin Islands, respectively, however, is an Organic Act.

Section 202

~~Section 202.~~ The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. The Constitution will be deemed to have been approved six months after its submission to the President on behalf of the Government of the United States unless earlier approved or disapproved. If disapproved the Constitution will be returned and will be resubmitted in accordance with this Section. Amendments to the Constitution may be made by the people of the Northern Mariana Islands without approval

by the Government of the United States, but the courts established by the Constitution or laws of the United States will be competent to determine whether the Constitution and subsequent amendments thereto are consistent with this Covenant and with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: Yes.

Referred to in Sections 105 1003(a).

For the effective date of the Constitution see Section 1004(b). For full definition of U.S.

[Term Northern Mariana Islands]
see Section 1005(b)

Drafting Committee Report:

Section 202. 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.

Senate Committee Report:

Section 202.—Under this provision the Constitution of the Northern Mariana Islands will be submitted to the Government of the United States for approval on the basis of its consistency with the Covenant, and the provisions of the Constitution, treaties, and laws of the United States applicable to the United States. The Covenant does not specify how the consent of the United States is to be given. Instead it provides that the Constitution shall be submitted to the President and shall be deemed to have been approved six months thereafter unless approved or disapproved at an earlier date.

Amendments to the Constitution of the Northern Mariana Islands are not subject to approval by the Government of the United States, but are subject to judicial review as to their consistency with the Covenant and applicable Federal law.

This provision is somewhat similar to the provision which required the United States Government to approve the Constitution of the Commonwealth of Puerto Rico. However, Section 202 contains two important restrictions on the approval of the local constitution by the United States. First, the scope of the Federal government's review of the Northern Marianas Constitution is limited: the review will be based entirely on the consistency of the local constitution with the Covenant and the applicable provisions of the Constitution, treaties and laws of the United States. This means that the United States cannot reject the local constitution just because it disagrees with the manner in which the people of the Northern Marianas have decided to govern themselves. Second, the United States is given only a limited period of time to review the Constitution. If within six months after the local constitution has been submitted to the United States it is not approved or disapproved, it will be deemed to have been approved. If the Constitution is disapproved, it is anticipated that the United States will return it and will state the reasons why it was disapproved.

Amendments to the local Constitution will not be submitted to the United States for their approval. This is an important aspect of local self-government, for it gives the people of the Northern Marianas the right to change the form of their government if that appears appropriate. The provision that the federal courts can determine whether the local constitution and its amendments are consistent with the Covenant and with the applicable portions of the United States Constitution and federal laws does not mean that the federal courts will review each provision and each amendment. Rather, it is simply an

assurance that in a proper case the federal courts will be able to determine whether there is a conflict between the local constitution and the federal law, just as the federal courts can determine whether there is a conflict between a state constitution or the Constitution of the Commonwealth of Puerto Rico and the federal law. (See Section 102.) It is understood that the local courts will also be able to review the local constitution and its amendments to assure their applicability with federal law in appropriate cases, just as state courts can do with respect to a state constitution.

This Section states the entire extent of the authority of the United States with respect to the Constitution of the Northern Mariana Islands under the Covenant, except for the power of the President to delay the effectiveness of certain provisions of the local constitution until termination of the Trusteeship. (See Section 1004(d).)

House Committee Report:

Section 202.—This provision provides for approval of the Commonwealth Constitution by the U.S. Government.

MPSC Memorandum:

Section 202

This Section provides that the original Northern Mariana Islands Constitution will be submitted to the United States Government for approval "on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands." The phrase in this Section which provides that the local constitution will be tested on the basis of its consistency with federal laws "to be applicable" to the Northern Marianas means those laws which will necessarily be applicable because of the provisions of the Covenant.

This provision is somewhat similar to the provision which required the United States Government to approve the Constitution of the Commonwealth of Puerto Rico. However, Section 202 contains two important restrictions on the approval of the local constitution by the United States. First, the scope of the federal government's review of the Northern Marianas Constitution is limited: the review will be based entirely on the consistency of the local constitution with the Covenant and the applicable provisions of the Constitution, treaties and laws of the United States. This means that the United States cannot reject the local constitution just because it disagrees with the manner in which the people of the Northern Marianas have decided to govern themselves. Second, the United States is given only a limited period of time to review the Constitution. If within six months after the local constitution has been submitted to the United States it is not approved or disapproved, it will be deemed to have been approved. If the Constitution is disapproved, it is anticipated that the United States will return it and will state the reasons that it was disapproved.

Amendments to the local Constitution will not be submitted to the United States for their approval. This is an important aspect of local self-government, for it gives the people of the Northern Marianas the right to change the form of their government if that appears appropriate. The provision that the federal courts can determine whether the local constitution and its amendments are consistent with the Covenant and with the applicable portions of the United States Constitution and federal laws does not mean that the federal courts will review each provision and each amendment. Rather, it is simply an assurance that in a proper case the federal courts will be able to determine whether there is a conflict between the local constitution and the federal law, just as the federal courts can determine whether there is a conflict between a state constitution or the Constitution of the Commonwealth of Puerto Rico and the federal law. (See Section 102.) It is understood that the local courts will also be able to review the local constitution and its amendments to assure their applicability with federal law in appropriate cases, just as state courts can do with respect to a state constitution.

This Section states the entire extent of the authority of the United States with respect to the Constitution of the Northern Mariana Islands under the Covenant, except for the power of the President to delay the effectiveness of certain provisions of the local constitution until termination of the Trusteeship. (See Section 1004(d).)

Administration Memorandum:

SECTION 202

Under this provision the Constitution of the Northern Mariana Islands will be submitted to the Government of the United States for approval on the basis of its consistency with the Covenant, and the provisions of the Constitution, treaties, and laws of the United States applicable to the United States. The Covenant does not specify how the consent of the United States is to be given. Instead it provides that the Constitution shall be submitted to the President on behalf of the United States and shall be deemed to have been approved six months thereafter unless approved or disapproved at an earlier date.

Amendments to the Constitution of the Northern Mariana Islands are not subject to approval by the Government of the United States, but are subject to judicial review as to their consistency with the Covenant and applicable federal law.

Drafting Committee Report:

Section 203(c). It is the intention of the parties that the provision stating that the legislative powers of the Northern Mariana Islands will extend "to all rightful subjects of legislation" be broadly interpreted, consistent with Section 102, to mean 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.

It is also the intention of the parties, as reflected in the unanimous view of the members of the Marianas Political Status Commission, that the Northern Mariana Islands Constitution provide for a distribution of the membership of one house of the legislature on the basis of appropriate considerations in addition to population and in particular that the phrase "chartered municipalities of the Northern Mariana Islands" be interpreted to mean the present chartered municipalities of Rota, Saipan and Tinian as constituted at the time of signature of this Covenant and any additional future chartered municipalities that may be added pursuant to the terms of the Constitution of the Northern Mariana Islands.

Senate Committee Report:

Section 203.—Section 203 states the requirements for the local constitution and establishes some basic principles regarding the form the local government will take.

Subsection (a) provides that the local constitution will establish a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights. The republican form of government with three separate branches is the basic form of government which is found in every state of the union, in the Federal government, in the territories and in the Commonwealth of Puerto Rico. This form of government assures that there will be checks and balances which will protect individual freedom.

Subsection (b) requires that the Governor be elected by the people, as they are in Puerto Rico (Constitution of Puerto Rico, Article IV, section 1); Guam (48 U.S.C. 1422); and the Virgin Islands (48 U.S.C. 1591).

Subsection (c) vests the legislative power in a popularly elected legislature and provides that it extends "to all rightful subjects of legislation". This clause is based on the 1958 amendment to section 8 of the Organic Act of the Virgin Islands (48 U.S.C. 1574(a)) and has been defined there to cover "the ordinary area of sovereign legislative power as limited and circumscribed by the Revised Organic Act of the laws of the United States made applicable to the Virgin Islands". S. Rept. 2267, 85th Cong., p. 2; *Virgo Corporation v. Paieronovsky*, 384 F. 2d 569 (C.A. 3, 1967), certiorari denied, 390 U.S. 1041. The subsection also requires that the Constitution of the Northern Mariana Islands shall provide for a bicameral legislature and that in one House thereof each of the presently chartered municipalities shall be equally represented. This provision was inserted at the insistence of the chartered municipalities of Rota and Tinian with the unanimous support of the Marianas Political Status Commission. This departure from the One Man-One Vote rule thus is justified under *Reynolds v. Sims*, 377 U.S. 533, 574 (1964). Moreover, the municipalities of Saipan, Tinian, and Rota are not governmental subdivisions created by the legislature, but are separate island communities with divergent histories, traditions and problems. *Id.* at 575.

Subsection (d) provides that the judicial power of the Northern Marianas will be vested in local courts. This will permit the local constitution or local laws to establish the manner in which judges will

be selected, which could be by appointment or by election as the people wish. It will also permit the local legislature to determine the jurisdiction of the local courts, so that local cases can be tried under local rules and procedures and before local judges. In addition, the Northern Marianas legislature will be able to require the federal court to hear local cases. (This matter is discussed in Article IV.) The local courts will not have jurisdiction of any case over which a United States court has exclusive jurisdiction. This is the same provision which is applicable in the states, territories and the Commonwealth of Puerto Rico. There are only a few such matters, and these are matters which are of particular concern to the federal government. There will be many more situations in which both the local courts and the federal courts will have jurisdiction. The relationship between the federal court and the local courts will be similar to that which exists in a state, as is more fully explained under Section 403(a).

House Committee Report:

Section 203.—Subsection (a) of Section 203 requires that the local Constitution provide for a republican form of government with separate executive, legislative and judicial branches, and contain a bill of rights.

Subsection (b) of Section 203 provides that the executive power of the Northern Marianas will be vested in a popularly elected governor and in such other officials as the people of the Northern Marianas provide for in the Constitution or laws.

Subsection (c) of this section provides that the Northern Marianas Legislature will be popularly elected, and that its power will extend to "all rightful subjects of legislation." The record of the hearing on H.J. Res. 549 before the Subcommittee established that the chief representatives of the U.S. Government and the Micronesian Political Status Commission, and the Subcommittee Chairman and the Subcommittee agreed that the understanding of and the ability to use the Chamorro language would be a valid factor for the Legislature to establish as a measure of employability in the Marianas Islands, in carrying out the authority provided for by this section.

Subsection (d) provides for local Northern Marianas courts with such jurisdiction as is established by the local constitution or local law.

MPSC Memorandum:

Section 203

Section 203 states the requirements for the local constitution and establishes some basic principles regarding the form the local government will take.

Subsection (a) provides that the local constitution will establish a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights. The republican form of government with three separate branches is the basic form of government which is found in every state of the union, in the federal government, in the territories and in the Commonwealth of Puerto Rico. This form of government assures that there will be checks and balances which will protect individual freedom. While the Northern Marianas Government will have to have three separate branches, the people of the Northern Marianas will be free to determine how the persons who will hold offices in each of those branches will be selected, and to define the precise powers which each branch of government will have. In addition, the people of the Northern Marianas will write a bill of rights to protect themselves from unwarranted local government action which interferes with their daily affairs, and to guarantee their rights to freedom and liberty.

Subsection (b) provides that the executive power of the Northern Marianas will be vested in a popularly elected governor and such other officials as the people of the Northern Marianas provide for in the Constitution or laws. This is one of the major areas of change from the present system of government. In the Northern Marianas today the executive branch is selected entirely by the United States and the Trust Territory Administration. Under the Covenant, the people of the Northern Marianas are guaranteed the right to elect their own governor, a right which has only recently been achieved by the people of Guam and the Virgin Islands.

Subsection (c) deals with the legislature of the Northern Marianas. It provides that the legislature will be popularly elected. It also provides that the power of the legislature will extend to "all rightful subjects of legislation." This is another manner in which the right of local self-government is guaranteed. This phrase is the broadest formulation of legislative power which is possible for the Commonwealth. It means that the power of the legislature will be limited only by the terms of the Covenant and by the applicable portions of the Constitution and laws of the United States and, of course, by the Constitution of the Northern Marianas. The second sentence of Subsection (c) provides that the Constitution of the Northern Marianas will provide for equal representation for each of the chartered municipalities of the Northern Mariana Islands in one house of a bicameral legislature. The chartered municipalities referred to are the present ones of Rota, Saipan and Tinian, and any additional future chartered municipalities as may be added pursuant to the terms of the new Constitution. The establishment of the commonwealth involves compromise and concessions which reflect the different historical and geographic interests of the major islands in the Northern Marianas group, as well as population. This sentence will require the Northern Marianas to have a two-house legislature analogous to the Congress of the United States. If this sentence were not included, Tinian and Rota would be limited to representation in the new commonwealth which is based entirely on population. The Commission concluded that, in light of the past experience of the people of Rota and Tinian and the need for their support of the Covenant, the protection afforded them by Section 203(c) was entirely appropriate and desirable. If the people do not approve such a distribution of the membership of the legislature in the Constitution of the Northern Mariana Islands after the Covenant has been approved by both parties, it would be necessary to obtain the approval of the Congress of the United States to any revision of Section 203(c), since it is covered by the mutual consent provision of the Covenant.

Subsection (d) provides that the judicial power of the Northern Marianas will be vested in local courts. This will permit the local constitution or local laws to establish the manner in which judges will be selected, which could be by appointment or by election as the people wish. It will also permit the local legislature to determine the jurisdiction of the local courts, so that local cases can be tried under local rules and procedures and before local judges. In addition, the Northern Marianas legislature will be able to require the federal court to hear local cases. (This matter is discussed in Article IV.) The local courts will not have jurisdiction of any case over which a United States court has exclusive jurisdiction. This is the same provision which is applicable in the states, territories and the Commonwealth of Puerto Rico. There are only a few such matters, and these are matters which are of particular concern to the federal government. There will be many more situations in which both the local courts and the federal courts will have jurisdiction. The relationship between the federal court and the local courts will be similar to that which exists in a state, as is more fully explained under Section 403(a).

Administration Memorandum:

SECTION 203

This section establishes certain requirements for the Constitution of the Northern Mariana Islands.

Subsection (a) requires a republican form of government and its separation into three branches.

Subsection (b) requires that the Governor be elected by the people, as they are in Puerto Rico (Constitution of Puerto Rico, Article IV, section 1); Guam (48 U.S.C. 1422); and the Virgin Islands (48 U.S.C. 1591).

Subsection (c) vests the legislative power in a popularly elected legislature and provides that it extends "to all rightful subjects of legislation". This clause is based on the 1958 amendment to section 8 of the Organic Act of the Virgin Islands (48 U.S.C. 1574(a)) and has been defined there to cover "the ordinary area of sovereign legislative power as limited and circumscribed by the Revised Organic Act of the laws of the United States made applicable to the Virgin Islands", S. Rept. 2207, 85th Cong., p. 2; *Virgo Corporation v. Patwonsky*, 384 F. 2d 569 (C.A. 3, 1967), certiorari denied, 390 U.S. 1041. The subsection also requires that the Constitution of the Northern Mariana Islands shall provide for a bicameral legislature and that in one House thereof each of the presently chartered municipalities shall be equally represented. This provision was inserted at the insistence of the chartered municipalities of Rota and Tinian. Without the votes of their representatives in the Marianas Political Status Commission this Covenant could not have been concluded. This departure from the One Man-One Vote rule thus is justified under *Reynolds v. Sims*, 377 U.S. 533, 574 (1964). Moreover, the municipalities of Saipan, Tinian, and Rota are not governmental subdivisions created by the legislature, but are separate island communities with divergent histories, traditions and problems. *Id.* at 575.

Subsection (d) provides for a judicial system which may exercise jurisdiction over all causes over which the federal courts do not have exclusive jurisdiction.

Section 204

~~Section 204.~~ All members of the legislature of the Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Covenant, those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: Yes.

Referred to in Sections 105 1003(b).

For the definition of the terms "Government of the Northern Mariana Islands" see Section 1005(c).

Senate Committee Report:

(b) am

Section 204.—Provides for the oath of office to be taken by all members of the legislature of the Northern Mariana Islands and all officers and employees of the Government thereof. Analogous provisions exist for Puerto Rico (48 U.S.C. 874); Guam (48 U.S.C. 1473d); and the Virgin Islands (48 U.S.C. 1543).

House Committee Report:

Section 204.—Section 204 provides that all members of the Legislature of the Northern Marianas and all officers and employees of the local government will take an oath or affirmation to support the Covenant, the applicable provisions of the Constitution and laws of the United States, and the local Constitution and laws.

MPSC Memorandum:

Section 204.

Section 204 provides that all members of the Legislature of the Northern Marianas and all officers and employees of the local government will take an oath or affirmation to support the Covenant, the applicable provisions of the Constitution and laws of the United States, and the local Constitution and laws. This is a standard sort of requirement in the states, the territories and the Commonwealth of Puerto Rico. It assures that those who hold public office will exercise their public trust in accordance with the applicable law.

Administration Memorandum:

SECTION 204

Provides for the oath of office to be taken by all members of the legislature of the Northern Mariana Islands and all officers and employees of the Government thereof. Analogous provisions exist for Puerto Rico (48 U.S.C. 874); Guam (48 U.S.C. 1473d); and the Virgin Islands (48 U.S.C. 1543).

ARTICLE III

Citizenship and Nationality

~~Section 301.~~ ^{Section 301} The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding t

effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

Effective Date: See Section 1003(c).

Mutual Consent Requirement: Yes.

Referred to in Sections 105,

See also Sections 503(a) and 506.

For the definitions of the terms "territory or possession" and "domicile" see Section 1005(d) and (e).

Senate Committee Report:

ARTICLE III—CITIZENSHIP AND NATIONALITY

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

Section 301.—This section confers United States citizenship on three categories of persons and their children under the age of 18, who do not owe allegiance to any foreign country:

(a) Those born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands and domiciled in the United States or any territory or possession thereof. The terms "domiciled" and "territory and possession of the United States" are defined in Section 1005(d) and (e).

(b) Those citizens of the Trust Territory of the Pacific Islands who have been domiciled in the Northern Mariana Islands for at least five years prior to the effective date of the section (presumably 1980 or 1981) and who, unless under age, have registered to vote for the Mariana Islands District Legislature or any municipal election in the Northern Mariana Islands prior to January 1, 1975. The purpose of this provision is in general to extend United States citizenship to citizens of the Trust Territory of the Pacific Islands who have established a *bona fide* permanent settlement in the Northern Mariana Islands, but to deny it to those citizens of the Trust Territory of the Pacific Islands whose presence in the Northern Mariana Islands is only temporary, in particular those whose presence in the Northern Mariana Islands is due only to their employment by the Trust Territory Government and the Congress of Micronesia.

(c) Those persons who are not citizens of the Trust Territory of the Pacific Islands who have been domiciled continuously in the Northern Marianas since January 1, 1974. This subsection has been prompted by the circumstance that there are a number of aliens lawfully admitted to the Trust Territory of the Pacific Islands and who have been domiciled in the Northern Mariana Islands for extended periods but who have not been granted TTPI citizenship due to its restrictive policy on naturalization. The cut-off date of January 1, 1974 prevents any abuse of this provision.

House Committee Report:

Article III—Citizenship and Nationality

Section 301.—Section 301 provides that, upon termination of the Trusteeship Agreement, the following persons and their children under 18 years of age who are not already citizens or nationals of the United States and who do not owe allegiance to any foreign country, which is a country other than the United States or the Trust Territory, will become citizens of the United States unless they choose to become U.S. Nationals instead:

(1) All persons who were born in the Northern Marianas, who are citizens of the Trust Territory of the Pacific Islands and who are domiciled in the Northern Marianas or the United States or any territory or possession of the United States;

(2) All persons who are citizens of the Trust Territory of the Pacific Islands, who have been domiciled continuously in the Northern Marianas for at least five years immediately prior to the termination of the Trusteeship and who, unless under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Marianas prior to January 1, 1975; and

(3) All persons, who immediately prior to the termination of the Trusteeship, are not citizens of the Trust Territory of the Pacific Islands but have been permanent residents of the Northern Mariana Islands continuously since before January 1, 1974.

MPSC Memorandum:

ARTICLE III—CITIZENSHIP AND NATIONALITY

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

Section 301

Section 301 provides that, upon termination of the Trusteeship Agreement, the following persons and their children under 18 who are not already citizens or nationals of the United States and who do not owe allegiance to any foreign country (that is, a country other than the United States or the Trust Territory), will become citizens of the United States unless they choose to become U.S. nationals instead:

All persons who were born in the Northern Marianas, who are citizens of the TTPI and who are domiciled in the Northern Marianas or the United States or any territory or possession of the United States, including the Commonwealth of Puerto Rico.

All persons who are citizens of the TTPI, who have been domiciled continuously in the Northern Marianas for at least five years immediately prior to the termination of the Trusteeship and who, unless under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Marianas prior to January 1, 1975. Since the Trusteeship is expected to end in approximately 1981, and since the requirements to register to vote in the Northern Marianas generally include a one year residence requirement, persons who are TTPI citizens who were not born in the Marianas will have to have lived in the Marianas since before January 1, 1974 in order to become U.S. citizens.

All persons who are not citizens of the TTPI (and not, as noted above, citizens of the United States or a foreign country either) but who have been permanent residents in the Northern Mariana Islands continuously since before January 1, 1974.

Section 1005(e) defines domicile as "that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period."

It should be noted that special provision is made in Section 506 of the Covenant to assure that close relatives of persons who are in the Marianas can become citizens of the United States by living in the Northern Marianas even though the immigration and naturalization laws of the United States will not generally be applicable.

Administration Memorandum:

SECTION 301

This section confers United States citizenship on three categories of persons and their children under the age of 18, who do not owe allegiance to any foreign country:

(a) Those born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands and domiciled in the United States or any territory or possession thereof. The terms "domiciled" and "territory and possession of the United States" are defined in Section 1005(d) and (e).

(b) Those citizens of the Trust Territory of the Pacific Islands who have been domiciled in the Northern Mariana Islands for at least five years prior to the effective date of the section (presumably 1980 or 1981) and who, unless under age, have registered to vote for the Mariana Islands District Legislature or any municipal election in the Northern Mariana Islands prior to January 1, 1975. The purpose of this provision is in general to extend United States citizenship to citizens of the Trust Territory of the Pacific Islands who have established a *bona fide* permanent settlement in the Northern Mariana Islands, but to deny it to those citizens of the Trust Territory of the Pacific Islands whose presence in the Northern Mariana Islands is only temporary, in particular those whose presence in the Northern Mariana Islands is due only to their employment by the Trust Territory Government and the Congress of Micronesia.

(c) Those persons who are not citizens of the Trust Territory of the Pacific Islands who have been domiciled continuously in the Northern Marianas since January 1, 1974. This subsection has been prompted by the circumstance that there are a number of aliens lawfully admitted to the Trust Territory of the Pacific Islands and who have been domiciled in the Northern Mariana Islands for extended periods but who have not been granted TTPI citizenship due to its restrictive policy on naturalization. The cut-off date of January 1, 1974 prevents any abuse of this provision.

Section 302

~~Section 302.~~ Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after (the effective date of that Section or within six months after) reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I.....being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

Effective Date: See Section 1003(c).

Mutual Consent Requirement: Yes.

Referred to in Section§ 105 . 1003(e).

Senate Committee Report:

Section 302.—Under this section persons entitled to become citizens of the United States pursuant to Section 301 will have the option to become nationals of the United States by taking an oath to that effect. This provision has been included in the Covenant to satisfy the request of a small number of generally older residents of the Northern Mariana Islands who felt that acquisition of United States citizenship would be contrary to their local traditions, and who preferred the national but not citizen status held by the residents of American Samoa. 8 U.S.C. 1408, 1101(29). A national owes permanent allegiance to the United States. 8 U.S.C. 1101(21). There is no difference between the obligations of loyalty and support which a citizen and a national owes to the United States, which are to assist in the defense of his country, to uphold it, to cooperate with it in law observance and enforcement, and to give allegiance to his country as a dutiful member.

House Committee Report:

Section 302.—This section provides that any person who would become a citizen of the United States solely because of Section 301 of the Covenant may within six months after the termination of the Trusteeship or within six months after reaching the age of 18 years, whichever is later, become a national instead of a citizen of the United States by making a declaration under oath before any federal court or any court of record in the Northern Marianas.

MPSC Memorandum:

Section 302

This Section provides that any person who would become a citizen of the United States solely because of Section 301 of the Covenant may within six months after the termination of the Trusteeship or within six months after reaching the age of 18, whichever date is the later one, become a national instead of a citizen of the United States by making a declaration under oath before any federal court or any court of record in the Northern Marianas stating his intention to be a national instead of a citizen of the United States. This Section provides a right to become a national instead of a citizen which is not generally available in any other part of the United States.

There are a few important substantive differences between a citizen and a national of the United States. Both owe a duty of allegiance to the United States. Each has the same obligations with respect to taxes, and each could be subject to the draft for military service if the draft is again initiated in the United States because of a national need. However, only citizens can hold certain jobs, such as sensitive government jobs. Only a citizen, after termination of the Trusteeship, will be able to be the Resident Representative in Washington from the Northern Mariana Islands. And only citizens are entitled to certain federal constitutional rights, such as the privileges and immunities protected by the Fourteenth Amendment and the right to vote without discrimination on the basis of sex or age over 18. On the other hand some persons believe that there is less of a psychological commitment to the United States if one is a national rather than a citizen. For these reasons and in recognition of the unique circumstances existing in the Northern Marianas, as part of the Trust Territory, the option has been preserved for certain persons to become nationals instead of citizens.

Administration Memorandum:

SECTION 302

Under this section persons entitled to become citizens of the United States pursuant to Section 301 will have the option to become nationals of the United States by taking an oath to that effect. This provision has been included in the Covenant to satisfy the request of a small number of generally older residents of the Northern Mariana Islands who felt that acquisition of United States citizenship would be contrary to their local traditions, and who preferred the national but not citizen status held by the residents of American Samoa. 8 U.S.C. 1408, 1101(29). A national owes permanent allegiance to the United States. 8 U.S.C. 1101(21).

Section 303

Section 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

Effective Date: See Section 1003(c).

Mutual Consent Requirement: Yes.

Referred to in Sections 105, 1003(c),

see also the inclusion in Section 501 of the first Section of the Fourteenth Amendment.

Senate Committee Report:

Section 303.—Under this section all persons born in the Northern Mariana Islands and subject to the jurisdiction of the United States after the effective date of the section, i.e., after the termination of the Trusteeship (1003(c)) will be citizens of the United State at birth. Similar provisions exist with respect to Puerto Rico (8 U.S.C. 1402); Guam (8 U.S.C. 1405); and the Virgin Islands (8 U.S.C. 1406). Persons who acquire United States citizenship at birth pursuant to this provision do not have the power to opt for national status under Section 302.

The phrase "subject to the jurisdiction of the United States" is included to assure that persons who are outside United States jurisdiction but who happen to be in the Marianas, such as children born of diplomats, do not become United States citizens inadvertently.

House Committee Report:

Section 303.—Under this section, persons born in the Northern Mariana Islands after termination of the Trusteeship will be United States citizens at birth.

MPSG Memorandum:

Section 303

This Section provides that all persons born in the Northern Marianas on or after the termination of Trusteeship and subject to the jurisdiction of the United States will be citizens of the United States by birth. This is the same kind of provision which exists with respect to the states, the territories and the Commonwealth of Puerto Rico. The phrase "subject to the jurisdiction of the United States" is included to assure that persons who are outside United States jurisdiction but who happen to be in the Marianas, such as children born of diplomats, do not become United States citizens inadvertently.

Administration Memorandum:

SECTION 303

Under this section all persons born in the Northern Mariana Islands and subject to the jurisdiction of the United States after the effective date of the section, i.e., after the termination of the Trusteeship (1003(c)) will be citizens of the United States at birth. Similar provisions exist with respect to Puerto Rico (8 U.S.C. 1402); Guam (8 U.S.C. 1405); and the Virgin Islands (8 U.S.C. 1406). Persons who acquire United States citizenship at birth pursuant to this provision do not have the power to opt for national status under Section 302.

Section 304

~~Section 304.~~ Citizens of the Northern Mariana Islands

will be entitled to all privileges and immunities of citizens in the several States of the United States.

Effective Date: See Section 1003(b), ~~and 1003(c)~~.

Mutual Consent Requirement: Yes.

Referred to in Sections 105, 1003(b).

See also the inclusion in Section 501 of the corresponding provision of Article IV, section 2, clause 1 of the Constitution.

For the definition of the term "Northern Mariana Islands" see Section 1005 (2)

Senate Committee Report:

Section 304.—Under this section citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States. This section dovetails with Article IV, Section 2, Clause 1 of the Constitution, which, pursuant to Section 501 of the Covenant, will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were a State. Thus the several States may not discriminate against citizens of the Northern Mariana Islands and the Northern Mariana Islands may not discriminate against citizens of the rest of the United States. A similar provision is in effect in Puerto Rico. 48 U.S.C. 737.

Special provisions have been included in the Covenant to assure that the local government will be able to prevent persons who are not of Mariana Islands descent, whether citizens of the United States or not, from acquiring title or long-term interests in land in the Northern Marianas. (See Section 805.)

House Committee Report:

Section 304.—Section 304 provides that citizens of the Northern Marianas will be entitled to all privileges and immunities of citizens in the several states of the United States.

MPSC Memorandum:

Section 504

This Section provides that citizens of the Northern Marianas will be entitled to all privileges and immunities of citizens in the several states of the United States. This Section prevents a state from discriminating against a person for the Northern Marianas if he travels to a state or if he decides to live in a state. This provision becomes effective at the same time that the new Government of the Northern Marianas comes into effect in accordance with Section 1003(b). It is modeled on Article IV, Section 2, Clause 1 of the United States Constitution, which assures citizens of each state the privileges and immunities of citizens in the several states. Under Section 501, Article IV, Section 2, Clause 1 of the U.S. Constitution will apply in the Northern Marianas as it does in the states, thereby assuring to citizens of states of the United States that they will not be discriminated against in the Northern Marianas. However, special provisions have been included in the Covenant to assure that the local government will be able to prevent persons who are not of Mariana Islands descent, whether citizens of the United States or not, from acquiring title or long-term interests in land in the Northern Marianas. (See Section 805.)

Administration Memorandum:

SECTION 504

Under this section citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States. This section dovetails with Article IV, Section 2, Clause 1 of the Constitution, which, pursuant to Section 501 of the Covenant, will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were a State. Thus the several States may not discriminate against citizens of the Northern Mariana Islands and the Northern Mariana Islands may not discriminate against citizens of the rest of the United States. A similar provision is in effect in Puerto Rico, 48 U.S.C. 737.

ARTICLE IV

Judicial Authority

Section 401. ^{Section 401} The United States will establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands". The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Sections 1003(b).

Full definition of the term 'Northern Mariana Islands' see Section 1005(12)
Report of the Drafting Committee:

Section 401. The establishment of a 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. The United States Congress, in its discretion, may also provide 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.

Senate Committee Report:

ARTICLE IV—JUDICIAL AUTHORITY

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

Section 401.—This section provides for the establishment of a District Court for the Northern Mariana Islands. The alternative of extending the jurisdiction of the District Court of Guam to the Northern Mariana Islands was rejected for the practical reason that the court would have different powers on Guam than in the Northern Mariana Islands. For example:

(1) There are slight differences in the language of Section 402 of the Covenant which governs the jurisdiction of the District Court for the Northern Mariana Islands and the corresponding provisions of the Organic Act of Guam (48 U.S.C. 1424(a)). As explained in the notes on Section 402, this difference is not one of substance but designed to cure an ambiguity in the language of the Organic Act of Guam.

(2) The Organic Act of Guam provides specifically that the District Court of Guam will have jurisdiction in certain tax cases (48 U.S.C. 1421 i(1), (5)). There is no corresponding provision in the Covenant.

(3) It may be appropriate to terminate the jurisdiction of the District Court over cases arising under local law at a different time on Guam than in the Northern Mariana Islands. At the present time, legislation is pending in Congress which would terminate the local law jurisdiction of the District Court of Guam.

However, for technical legal reasons it was considered preferable to have two separate courts. This, of course, will not prevent Congress from providing that the District Judge, United States Attorney and United States Marshal for Guam shall hold the corresponding federal offices in the Northern Mariana Islands at the same time. Congress may be requested by the Northern Mariana Islands to provide that the United States Attorney and United States Marshal for the Northern Mariana Islands may be charged with the enforcement of certain local law enforcement responsibilities. A pertinent precedent exists in the Virgin Islands. 48 U.S.C. 1617.

House Committee Report:

Article IV—Judicial Authority

Section 401.—Section 401 requires the United States to establish for and within the Northern Mariana Islands a federal court of record to be known as the "District Court for the Northern Mariana Islands".

MPSC Memorandum:

Section 401

Section 401 requires the United States to establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands." This will assure the people of the Northern Marianas access to their own federal court. 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 federal offices in the Northern Marianas at the same time, if the workload is such that they can accomplish their responsibilities in the Northern Marianas expeditiously and completely. Congress may be asked to enact legislation which will permit the Northern Marianas Legislature to instruct the United States Attorney and United States Marshal for the Northern Marianas to perform certain functions related to the execution of local law. This will permit efficient utilization of all available services and save local government funds. The United States will determine the pay and tenure of the federal judge in the District Court for the Northern Mariana Islands. It is expected that he will be appointed in the way that judges for federal courts generally are appointed—that is, by the President of the United States with the advice and consent of the Senate of the United States. Of course, the views of the people of the Northern Marianas with respect to the person who is appointed to be the federal judge here will be made known to the United States Government through the Northern Marianas Resident Representative in Washington. Local judges, on the other hand, will be elected or appointed by the local government in accordance with the local constitution and local law.

This Section provides as a matter of administrative convenience that the Northern Marianas will constitute a part of the same judicial circuit of the United States as does Guam. At the present time, this is the Ninth Judicial Circuit. This affects only federal jurisdiction and does not at all affect the powers of the local courts. Nor does it imply that Guam and the Northern Marianas will have a single court system. California and Hawaii, for example, are also within the same judicial circuit of the United States as is Guam.

Administration Memorandum:

SECTION 401

This section provides for the establishment of a District Court for the Northern Mariana Islands. The alternative of extending the jurisdiction of the District Court of Guam to the Northern Mariana Islands was rejected for the practical reason that the court would have different powers on Guam than in the Northern Mariana Islands. For example:

(1) There are slight differences in the language of Section 402 of the Covenant which governs the jurisdiction of the District Court for the Northern Mariana Islands and the corresponding provisions of the Organic Act of Guam (48 U.S.C. 1424(a)). As explained in the notes on Section 402 this difference is not one of substance but designed to cure an ambiguity in the language of the Organic Act of Guam.

(2) The Organic Act of Guam provides specifically that the District Court of Guam will have jurisdiction in certain tax cases (48 U.S.C. 1421 i(1), (5)). There is no corresponding provision in the Covenant.

(3) It may be appropriate to terminate the jurisdiction of the District Court over cases arising under local law at a different time on Guam than in the Northern Mariana Islands. At the present time, legislation is pending in Congress which would terminate the local law jurisdiction of the District Court of Guam.

However, for technical legal reasons it was considered preferable to have two separate courts. This, of course, will not prevent Congress from providing that the District Judge, United States Attorney and United States Marshal for Guam shall hold the corresponding federal offices in the Northern Mariana Islands at the same time. Congress may be requested by the Northern Mariana Islands to provide that the United States Attorney and United States Marshal for the Northern Mariana Islands may be charged with the enforcement of certain local law enforcement responsibilities. A pertinent precedent exists in the Virgin Islands. 48 U.S.C. 1617.

Section 402

(a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on the basis of this Subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Sections 403, 1003(b).

For the courts of the Northern Mariana Islands, see Section 203(d).

For the definition of the term 'Northern Mariana Islands' see Section 1005 (2)

Report of the Drafting Committee:

Subsection 402(c). It is the intention of the parties with respect to this Subsection that the Legislature of the Northern Mariana Islands be 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 or reinstate the appellate jurisdiction of the District Court.

Senate Committee Report:

Section 402.—Subsection (a) provides that the District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States with the exception that no jurisdictional amount is required in federal jurisdiction cases. Analogous provisions exist for Guam (48 U.S.C. 1424) and the Virgin Islands (48 U.S.C. 1612). Certain ambiguities in the language of those sections have been corrected on the basis of the interpretation of 48 U.S.C. 1612 in *Ferguson v. Kwik-Chek*, 308 F. Supp. 78, 79-80 (D.C. V.I., 1970), and *Government of the Virgin Islands v. May*, 384 F. Supp. 1035, 1037-1038 (D.C. V.I., 1974). See also *Econo-Car International, Inc. v. Antilles Car Rentals, Inc.*, 499 F.2d 1391, 1393 (C.A. 3, 1974).

Under Subsection (b) the District Court for the Northern Mariana Islands also has original jurisdiction over all local cases arising in the Northern Mariana Islands unless local law vests such jurisdiction in a local court. This provision will be beneficial until the Northern

Mariana Islands is able to develop a sufficient body of trained lawyers. A similar provision exists on Guam, 48 U.S.C. 1424 (a) (par. 1).

Pursuant to subsection (c) the District Court will have such appellate jurisdiction over the decisions of the local courts of the Northern Mariana Islands as the laws of the Northern Mariana Islands provide. Similar provisions exist for Guam, 48 U.S.C. 1424 (a) (par. 2), and the Virgin Islands, 48 U.S.C. 1612.

House Committee Report:

Section 402.—Section 402 deals with the jurisdiction of the federal court which will be established in the Northern Marianas.

Subsection (a) provides that the District Court for the Northern Marianas will have the same jurisdiction as a district court of the United States in a state of the union, except that, in cases raising question of federal law, it will have jurisdiction regardless of the amount in dispute.

Subsection (b) provides that the District Court for the Northern Marianas will have jurisdiction over local cases unless the Constitution or laws of the Northern Marianas vest such jurisdiction in a court established by the local government.

Subsection (b) provides also that, when it hears a local case, the federal court determines the requirements of indictment by grand jury and trial by jury in both civil and criminal cases as would a court of the Northern Marianas.

Subsection (c) provides that the Federal District Court in the Northern Marianas will have such appellate jurisdiction as the Constitution or laws of the Northern Marianas may provide, and that when the District Court sits as an appellate court, it will consist of three judges, at least one of whom must be a judge of a court of record of the Northern Mariana Islands.

MPSC Memorandum:

Section 402

This Section deals with the jurisdiction of the federal court which will be established in the Northern Marianas.

Subsection (a) provides that the District Court for the Northern Marianas will have the same jurisdiction as a district court of the United States in a state of the union. In addition, under this subsection, the Northern Marianas federal court will have jurisdiction with respect to cases raising questions of federal law regardless of the sum which is in dispute. Under present federal law it is sometimes necessary to have a case which involves more than \$10,000 in order to present a claim in federal court. This subsection assures that persons with claims arising under the Constitution or laws of the United States in the Northern Marianas will be able to have access to the federal court regardless of the amount of money which is involved in their case.

Subsection (b) provides that the District Court for the Northern Marianas will have jurisdiction over local cases unless the Constitution or laws of the Northern Marianas vest such jurisdiction in a court established by the local government. This subsection permits the local government to take advantage of the existence of a federal court by having the federal judge hear these local cases. It is left completely up to the local legislature whether or not to permit the federal court to hear these cases, and the local legislature, in accordance with the local Constitution, will be able to transfer jurisdiction from the federal court to the local courts whenever appropriate. Similar provisions have been successful in Guam and in the Virgin Islands. As the Northern Marianas grow in population and as resources are available to fund local courts, it can be anticipated that jurisdiction over local matters will be transferred from the federal court to the local courts. Subsection (b) also assures that when the federal court hears a local case, it will be considered as if it were a court of the Northern Marianas for the purposes of determining the requirements of indictment by grand jury and trial by jury in both civil and criminal cases. Section 501 of the Covenant assures that the local legislature will determine whether there is any necessity for an indictment by grand jury or any right to trial by jury in civil and criminal cases of a local nature. Where such local cases are actually heard in the federal court under this Subsection (b), this sentence assures that the procedure to be followed will be determined by the local legislature.

Subsection (c) provides that the Federal District Court in the Northern Marianas will have such appellate jurisdiction as the Constitutional or laws of the Northern Marianas may provide. This Section permits the local legislature of the local Constitution to vest in the District Court jurisdiction to review decisions made in, for example, the trial courts of the Northern Marianas. Somewhat similar language was contained in the Guam Organic Act, and there apparently has been some question about its effect in that Act. Though the circumstances are quite different, particularly in view of the fact that the Covenant provides a mechanism for eventual Supreme Court review of local decisions, see Section 403(a), it should be noted that the negotiating parties clearly understood that this Subsection (c) places no obligation on the Legislature of the Northern Marianas to grant any appellate jurisdiction to the District Court for the Northern Marianas. The Legislature may choose at any time and from time to time to establish appellate courts of the Northern Marianas and to eliminate the appellate jurisdiction of the District Court. Subsection (c) also provides that when the District Court sits as an appellate court it will consist of three judges, at least one of whom must be a judge of a court of record of the Northern Mariana Islands. This assures local participation in appellate decisions even when they are rendered by the local federal court.

Administration Memorandum: SECTION 402

Subsection (a) provides that the District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States with the exception that no jurisdictional amount is required in federal jurisdiction cases. Analogous provisions exist for Guam (48 U.S.C. 1424) and the Virgin Islands (48 U.S.C. 1612). Certain ambiguities in the language of those sections have been corrected on the basis of the interpretation of 48 U.S.C. 1612 in *Ferguson v. Kwik-Chek*, 308 F. Supp. 78, 79-80 (D.C. V.I., 1970), and *Government of the Virgin Islands v. May*, 384 F. Supp. 1035, 1037-1038 (D.C. V.I., 1974). See also *Econo-Car International, Inc. v. Antilles Car Rentals, Inc.*, 499 F. 2d 1391, 1393 (C.A. 3, 1974).

Under Subsection (b) the District Court for the Northern Mariana Islands also has original jurisdiction over all local cases arising in the Northern Mariana Islands unless local law vests such jurisdiction in a local court. This provision will be beneficial until the Northern Mariana Islands is able to develop a sufficient body of trained lawyers. A similar provision exists on Guam. 48 U.S.C. 1424(a) (par. 1).

Pursuant to subsection (c) the District Court will have such appellate jurisdiction over the decisions of the local courts of the Northern Mariana Islands as the laws of the Northern Mariana Islands provide. Similar provisions exist for Guam, 48 U.S.C. 1424(a) (par. 2), and the Virgin Islands, 48 U.S.C. 1612.

Section 403

(a) *The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the*

establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402(c). (b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Sections 1003(b).

For the courts of the Northern Mariana Islands, see Section 203(d).

For the definition of the term "Northern Mariana Islands" see Section 1005(b) Senate Committee Report:

Section 403.—This section contains technical provisions designed to fit the local courts of the Northern Mariana Islands into the federal judicial system. It is based generally on 28 U.S.C. 1258 and 48 U.S.C. 864 governing the relationship between the local courts of Puerto Rico and the federal courts. There is, however, one exception. For the first fifteen years following the establishment of a local appellate court for the Northern Mariana Islands the decisions of that court involving federal questions will be reviewable in the Court of Appeals for the Judicial Circuit which includes the Northern Mariana Islands (now the Ninth Circuit). A similar provision was in effect for Puerto Rico until 1961. This would insure mandatory review by a Court of Appeals rather than discretionary Supreme Court review of federal question cases which are bound to arise during the early years of the Commonwealth.

Subsection (b) analogizes the status in the federal system of the District Court for the Northern Mariana Islands to that of the District Court of Guam. It also assures the applicability with respect to the Northern Mariana Islands of important provisions such as 28 U.S.C. 1332 pursuant to which the courts of the United States can hear diversity cases involving citizens of Guam, and 28 U.S.C. 1738 pursuant to which the acts, record, and judicial proceedings of Guam are entitled to full faith and credit.

House Committee Report:

Section 403.—This section deals with technical matters relating to United States judicial authority within the Northern Mariana Islands.

Subsection (a) assures that the relations between federal courts and the courts of the Northern Mariana Islands will be essentially the same as the relationship between the federal courts and the courts of the states.

Subsection (b) provides that those portions of Title 28 of the United States Code which apply to Guam or to the District Court of Guam will be applicable to the Northern Marianas or the District Court for the Northern Marianas except as otherwise provided in Article IV. This section assures that the rules of procedure and other relevant federal laws are applicable.

MPSC Memorandum:

Section 403

This Section deals with a variety of technical matters relating to United States judicial authority within the Northern Mariana Islands.

Subsection (a) assures that the relations between federal courts and the courts of the Northern Mariana Islands will be essentially the same as the relationship between the federal courts and the courts of the states. This section covers such matters as appeals, petitions for review of cases by the Supreme Court of the United States, removal of cases from the local courts into the federal courts, the issuance of writs of habeas corpus to prevent unlawful imprisonment, and other matters and proceedings such as injunctions. The Section also provides that for the first 15 years after the establishment of an appellate court of the Northern Mariana Islands, the United States Court of Appeals for the judicial circuit which includes the Northern Marianas (presently the Ninth Judicial Circuit of the United States) will be able to review final decisions of the Marianas Courts where those decisions involve the Constitution, treaties or laws of the United States, unless those decisions are reviewable in the Federal District Court for the Northern Marianas. This provision permits appeals with respect to federal matters to be taken to the Court of Appeals, which is located in San Francisco. In the absence of this provision such appeals would have to go directly to the Supreme Court of the United States in Washington, which may be inconvenient for the litigants. Under this provision, appeals could still be taken from the Court of Appeals to the Supreme Court.

The special provision for appeals to the Court of Appeals is not applicable if appeals can be taken to the Federal District Court in the Northern Marianas, for under established federal law appeals will go from that court to the Court of Appeals in any event. After the expiration of 15 years, appeals from the Courts of the Northern Marianas will be taken only to the United States Supreme Court, unless the local Constitution of the local legislature directs that such appeals be heard in the Federal District Court for the Northern Marianas, from which they may also eventually go to the Supreme Court.

Subsection (b) provides that those portions of Title 28 of the United States Code (the Judicial Code of the United States) which apply to Guam or to the District Court of Guam will be applicable to the Northern Marianas or the District Court for the Northern Marianas except as otherwise provided in Article IV. This Section is largely technical and simply assures that the rules of procedure and other relevant federal laws are applicable. It also assures, however, that several important statutes which are now applicable with respect to Guam will be applicable with respect to the Northern Marianas. In particular, the statute which permits courts of the United States to hear cases which involve citizens of Guam, 28 U.S.C. § 1332, and the statute which requires that full faith and credit be given to the acts, records and judicial proceedings of Guam, 28 U.S.C. § 1738, will also be applicable with respect to the Northern Marianas.

Administration Memorandum:

SECTION 403

This section contains technical provisions designed to fit the local courts of the Northern Mariana Islands into the federal judicial system. It is based generally on 28 U.S.C. 1258 and 48 U.S.C. 864 governing the relationship between the local courts of Puerto Rico and the federal courts. There is, however, one exception. For the first fifteen years following the establishment of a local appellate court for the Northern Mariana Islands the decisions of that court involving federal questions will be reviewable in the Court of Appeals for the Judicial Circuit which includes the Northern Mariana Islands (now the Ninth Circuit). A similar provision was in effect for Puerto Rico until 1961. This would insure mandatory review by a Court of Appeals rather than discretionary Supreme Court review of federal question cases which are bound to arise during the early years of the Commonwealth.

Subsection (b) analogizes the status in the federal system of the District Court for the Northern Mariana Islands to that of the District Court of Guam. It also assures the applicability with respect to the Northern Mariana Islands of important provisions such as 28 U.S.C. 1332 pursuant to which the courts of the United States can hear diversity cases involving citizens of Guam, and 28 U.S.C. 1738, pursuant to which the acts, record, and judicial proceedings of Guam are entitled to full faith and credit.

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Applicability of Laws

Section 501.

Section 501

(a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9, Clauses 2, 3 and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with the approval of the Government of the Northern Mariana Islands and of the Government of the United States.

(b) The applicability of certain provisions of the Constitution of the United States to the Northern Mariana Islands will be without prejudice to the validity of and the power of the Congress of the United States to consent to Sections 203, 506 and 805 and the proviso in Subsection (a) of this Section.

Effective Date: See Sections 1003(b) and 1004,
 Mutual Consent Requirement: Yes.
 Referred to in Sections 105, 1003(b).

En el Definitivo of the terms "Northern Mariana Islands" and Government see Section 1005 (b) of the Northern Mariana Islands" see Section 1005 (b) and (c).

Report of Drafting Committee:

Subsection 501(a). This Subsection is intended, among other things, 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, as if the Northern Mariana Islands were a State. As reflected in this Subsection the parties recognize that certain provisions of the Constitution of the United States will apply to the Northern Mariana Islands of their own force by virtue of Article I of this Covenant.

The inclusion or omission of the power to legislate in the specific reference to certain provisions of the Constitution of the United States is not designed to affect the authority of the United States to legislate with respect to the Northern Mariana Islands. That power is governed by Article I. *[of the Covenant]*

Subsection 501(b). The provisions of the Covenant referred to in this Subsection constitute integral parts of the mutual compromises and concessions without which the accession of the Northern Mariana Islands to the United States would not have been possible. The inclusion of any of those provisions in this Subsection should not imply that these provisions are in conflict with the Constitution of the United States.

Senate Committee Report:

ARTICLE V—APPLICABILITY OF LAWS

Article V deals with the application of the Constitution and laws of the United States to the Northern Marianas and assures that those local laws in existence at the time at which the new Government of the Northern Marianas comes into being will continue to be effective unless and until altered by the local Legislature.

Section 501.—Subsection (a) deals with the applicability of the Constitution of the United States to the Northern Mariana Islands. The formulation of this subsection has been complicated by a certain ambivalence in the decisions of the Supreme Court which hold that the provisions of the Constitution protecting fundamental rights of citizens extend to the territories of the United States by their own force, while the other provisions of the Constitution apply to unincorporated territories, such as the Northern Mariana Islands, only if expressly extended to them. This subsection expressly extends to the Northern Mariana Islands certain provisions of the Constitution as if the Northern Mariana Islands were a State. Those provisions fall into two groups: (a) the basic rights of citizenship which were made applicable to Guam and the Virgin Islands in 1968 in connection with their Elected Governor acts, see 48 U.S.C. 1421b(u), and 1561 (last two paragraphs), as well as the subsequently adopted Twenty-sixth

Amendment to the Constitution, and (b) certain provisions of the Constitution limiting the power of Congress and defining the relationship between the Federal Government and the States, which were not relevant to the 1968 legislation. These are in particular Article I, Section 9, Clause 8, Section 10, Clauses 1 and 3.

The subsection exempts proceedings in the local courts—except where required by local law—from the requirements by indictment by grand jury and trial by jury. Similar provisions exist with respect to Guam (48 U.S.C. 1424(b)), and the Virgin Islands (48 U.S.C. 1561, 1616). They are supported by decisions such as *Dorr v. United States*, 195 U.S. 138 (1904), and *Balzac v. Puerto Rico*, 258 U.S. 298 (1922), holding that the Constitution does not require jury trials in the local courts of unincorporated territories which do not have the common law tradition. The subsection also provides that other provisions of the Constitution or future Amendments thereto will become applicable to the Northern Mariana Islands only with the consent of the Government of the United States and the Government of the Northern Mariana Islands, unless, they apply to the Northern Mariana Islands of their own force, i.e., because they relate to "fundamental rights".

Subsection (b) specifically exempts certain provisions of the Covenant from the applicability of the Constitution to the Northern Mariana Islands. They are section 203, providing for a departure from the One-Man One-Vote rule; section 506, which permits a potentially nonuniform rule of naturalization in the Northern Mariana Islands; section 805, which limits the acquisition of property to persons of Northern Mariana Islands descent; and the proviso in Section 501 (a) which provides that the right to jury trial in local court proceedings shall not apply unless required by local law. This subsection has been inserted only out of super-abundance of caution. In the discussion of those provisions it has been pointed out that they are in accord with the Constitution.

Subsection (a) provides that the following provisions of the United States Constitution will be applicable to the Northern Marianas as if the Northern Marianas were a state:

Article I, Section 9, Clause 2, which prohibits the suspension of the writ of habeas corpus except when because of rebellion or invasion the public safety requires suspension. The writ of habeas corpus is the authority of the courts to free persons who are being imprisoned unlawfully, and this Section prohibits the federal government from suspending that writ except in extreme emergencies.

Article I, Section 9, Clause 3, which prohibits the federal government from passing bills of attainder or ex post facto laws. These are laws which impose a legislative punishment rather than a judicial one or which provide for the punishment of conduct which was not criminal when the conduct occurred.

Article I, Section 9, Clause 8, which prohibits the United States from granting titles or nobility, and prohibits persons holding an office of profit or trust from the United States from accepting presents or titles or offices from any foreign country without the permission of Congress.

Article I, Section 10, Clause 1, which prevents a state from, among other things, laying a duty on tonnage, keeping troops or ships of war

in time of peace, entering into a compact with a foreign state, or engaging in war unless actually invaded, without the consent of Congress.

Article IV, Section 1, which provides that each state shall give full faith and credit to the public acts, records and judicial proceedings of every other state.

Article IV, Section 2, Clause 1, which guarantees to the citizens of each state entitlement to the privileges and immunities of citizens in the several states.

Article IV, Section 2, Clause 2, which provides that a person who is charged in any state with treason, felony or another crime and who flees from justice and is found in another state shall on demand of the executive of the state from which he fled be delivered up to be removed to the state having jurisdiction of the crime.

First Amendment, which prohibits the federal government from making any law respecting an establishment of religion or prohibiting the free exercise of religion, or abridging freedom of speech or of the press or the right of the people peaceably to assemble and to petition the federal government for a redress of grievances.

Second Amendment, which because of the necessity of a well regulated militia to the security of a free state prohibits an infringement of the right of the people to keep and bear arms.

Third Amendment, which provides that no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war except in a manner which is prescribed by law.

Fourth Amendment, which protects the right of the people to be secure in their persons, houses and papers and effects against unreasonable searches and seizures, and prevents the issuance of warrants other than on probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or the things to be seized.

Fifth Amendment, which prohibits holding any person to answer for a capital or infamous crime (that is, one punishable by death or imprisonment for more than one year) unless they have been indicted by a grand jury, or unless the case arose out of the armed services; and which prohibits trying a person twice for the same offense, or compelling a person in a criminal case to be a witness against himself, or depriving a person of life, liberty or property without due process of law, or taking private property for public use without just compensation.

Sixth Amendment, which assures an accused in any criminal prosecution the right to a speedy and public trial by an impartial jury of the state in which the crime was committed, and which grants to an accused the right to be informed of the nature and cause of the charge against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Seventh Amendment, which provides a right of trial by jury in cases in which it has traditionally been available and where the amount in controversy exceeds \$20.00; and which prohibits the re-examination of a fact tried by a jury by any court of the United States except where permitted under traditional procedures.

Eighth Amendment, which prohibits excessive bail or excessive fines and cruel and unusual punishment.

Ninth Amendment, which assures that the enumeration in the Constitution of certain rights is not construed to deny or to disparage other rights retained by the people.

Thirteenth Amendment, which prohibits slavery or involuntary servitude, except as a punishment for a crime after due conviction, in the United States or in any place subject to its jurisdiction.

Fourteenth Amendment, Section 1, which provides that all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state in which they reside; which prohibits any state from making or enforcing any law which abridges the privileges and immunities of citizens of the United States; which prohibits any state from depriving any person of life, liberty or property without due process of law, or from denying to any person the equal protection of the laws.

Fifteenth Amendment, which prohibits the United States or any state from denying any citizen of the United States the right to vote on account of race, color or previous condition of servitude.

Nineteenth Amendment, which prohibits the United States or any state from denying any citizen of the United States the right to vote on account of sex.

Twenty-sixth Amendment, which prohibits the United States or any state from denying any citizen of the United States who is eighteen years of age or older the right to vote on account of age.

These fundamental provisions of the United States Constitution will apply to the Northern Marianas as if it were a state. The Bill of Rights, contained in Amendments 1 through 9 of the Constitution, apply directly to the federal government, and will prevent the federal government from infringing on the basic individual freedoms of the people of the Northern Marianas. Because the due process clause and equal protection clause of the Fourteenth Amendment will apply to the Northern Marianas as if it were a state, the local government will also have to comply with many of the fundamental provisions of the Bill of Rights in its dealings with the local citizens. In addition, of course, the local government will be bound by the local Constitution and this will provide additional protections for individual freedom.

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House Committee Report:

Article V—Applicability of laws

Section 501.—This section deals with the application of the United States Constitution to the Northern Mariana Islands, and makes applicable to the Northern Marianas, as if it were a state, certain of the Constitutional provisions governing the relationship between the Federal Government and the states.

Subsection (a) provides that the specific provisions of the United States Constitution will be applicable to the Northern Marianas as if the Northern Marianas were a state.

It also provides that other provisions of or amendments to the Constitution of the United States which do not apply of their own force within the Northern Mariana Islands will be applicable only with the approval of the local government and of the Government of the United States.

Subsection (b) is intended to make clear that the applicability of certain provisions of the U.S. Constitution to the Northern Marianas will not prohibit the local government from imposing land alienation restrictions under Section 805, or from providing for a bicameral legislature as specified under Section 203, or from controlling jury and grand jury procedures in local cases in the Northern Marianas under Section 501.

MPSC Memorandum:

ARTICLE V—APPLICABILITY OF LAWS

Article V deals with the application of the Constitution and laws of the United States to the Northern Marianas and assures that those local laws in existence at the time that the new Government of the Northern Marianas comes into being will continue to be effective unless and until altered by the local Legislature.

Section 501

Section 501 deals with the application of the United States Constitution to the Northern Mariana Islands. The purpose of the Section is to extend to the people of the Northern Marianas the basic rights of United States citizenship, just as those rights are enjoyed by the people in the states. The Section is also intended to make applicable to the Northern Marianas, as if it were a state, certain of the Constitutional provisions governing the relationship between the federal government and the states.

Subsection (a) provides that the following provisions of the United States Constitution will be applicable to the Northern Marianas as if the Northern Marianas were a state:

Article I, Section 9, Clause 2, which prohibits the suspension of the writ of habeas corpus except when because of rebellion or invasion the public safety requires suspension. The writ of habeas corpus is the authority of the courts to free persons who are being imprisoned unlawfully, and this Section prohibits the federal government from suspending that writ except in extreme emergencies.

Article I, Section 9, Clause 3, which prohibits the federal government from passing bills of attainder or ex post facto laws. These are laws which impose a legislative punishment rather than a judicial one or which provide for the punishment of conduct which was not criminal when the conduct occurred.

Article I, Section 9, Clause 8, which prohibits the United States from granting titles of nobility, and prohibits persons holding an office of profit or trust from the United States from accepting presents or titles or offices from any foreign country without the permission of Congress.

Article I, Section 10, Clause 1, which prevents a state from, among other things, laying a duty on tonnage, keeping troops or ships of war in time of peace, entering into a compact with a foreign state, or engaging in war unless actually invaded, without the consent of Congress.

Article IV, Section 1, which provides that each state shall give full faith and credit to the public acts, records and judicial proceedings of every other state.

Article IV, Section 2, Clause 1, which guarantees to the citizens of each state entitlement to the privileges and immunities of citizens in the several states.

Article IV, Section 2, Clause 2, which provides that a person who is charged in any state with treason, felony or another crime and who flees from justice and is found in another state shall on demand of the executive of the state from which he fled be delivered up to be removed to the state having jurisdiction of the crime.

First Amendment, which prohibits the federal government from making any law respecting an establishment of religion or prohibiting the free exercise of religion, or abridging freedom of speech or of the press or the right of the people peaceably to assemble and to petition the federal government for a redress of grievances.

Second Amendment, which because of the necessity of a well regulated militia to the security of a free state prohibits an infringement of the right of the people to keep and bear arms.

Third Amendment, which provides that no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war except in a manner which is prescribed by law.

Fourth Amendment, which protects the right of the people to be secure in their persons, houses and papers and effects against unreasonable searches and seizures, and prevents the issuance of warrants other than on probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or the things to be seized.

Fifth Amendment, which prohibits holding any person to answer for a capital or infamous crime (that is, one punishable by death or imprisonment for more than one year) unless they have been indicted by a grand jury, or unless the case arose out of the armed services; and which prohibits trying a person twice for the same offense, or compelling a person in a criminal case

to be a witness against himself, or depriving a person of life, liberty or property without due process of law, or taking private property for public use without just compensation.

Sixth Amendment, which assures an accused in any criminal prosecution the right to a speedy and public trial by an impartial jury of the state in which the crime was committed, and which grants to an accused the right to be informed of the nature and cause of the charge against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Seventh Amendment, which provides a right of trial by jury in cases in which it has traditionally been available and where the amount in controversy exceeds \$20.00; and which prohibits the re-examination of a fact tried by a jury by any court of the United States except where permitted under traditional procedures.

Eighth Amendment, which prohibits excessive bail or excessive fines and cruel and unusual punishment.

Ninth Amendment, which assures that the enumeration in the Constitution of certain rights is not construed to deny or to disparage other rights retained by the people.

Thirteenth Amendment, which prohibits slavery or involuntary servitude, except as a punishment for a crime after due conviction, in the United States or in any place subject to its jurisdiction.

Fourteenth Amendment, Section 1, which provides that that all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state in which they reside; which prohibits any state from making or enforcing any law which abridges the privileges and immunities of citizens of the United States; which prohibits any state from depriving any person of life, liberty or property without due process of law, or from denying to any person the equal protection of the laws.

Fifteenth Amendment, which prohibits the United States or any state from denying any citizen of the United States the right to vote on account of race, color or previous condition of servitude.

Nineteenth Amendment, which prohibits the United States or any state from denying any citizen of the United States the right to vote on account of sex.

Twenty-sixth Amendment, which prohibits the United States or any state from denying any citizen of the United States who is eighteen years of age or older the right to vote on account of age.

These fundamental provisions of the United States Constitution will apply to the Northern Marianas as if it were a state. The Bill of Rights, contained in Amendments 1 through 9 of the Constitution, apply directly to the federal government, and will prevent the federal government from infringing on the basic individual freedoms of the people of the Northern Marianas. Because the due process clause and equal protection clause of the Fourteenth Amendment will apply to the Northern Marianas as if it were a state, the local government will need to comply with many of the fundamental provisions of the Bill of Rights in its dealings with the local citizens. In addition, of course, the local government will be bound by the local Constitution and this will provide additional protections for individual freedom.

The wording of Subsection (a) is broad enough to include certain provisions of the United States Constitution which grant legislative powers to Congress and at the same time narrow enough to exclude other similar provisions. The wording of Subsection (a) in this regard is not intended in any way to limit or to expand the authority of the United States with respect to the Northern Marianas under Article I. It is intended, as noted, to extend the basic rights of United States citizenship and to establish certain structural relations between the local government and the federal government, and not to grant legislative power to the Congress.

Subsection (a) also provides that the application of certain provisions of the United States Constitution will not mean that a trial by jury or an indictment by grand jury will be required in any civil case or criminal prosecution based on local law. This is a matter left entirely to the local legislature and the Northern Marianas Constitution. If a grand jury indictment is required in local cases, the local prosecutor will have to convince a special jury that there is enough evidence to try a person for a serious crime before the case may be brought before a regular jury. If the grand jury indictment is not required then the prosecutor may bring the case if in his own judgment there is reason to believe that a crime has been committed. Federal cases, however, will have to be brought after an

indictment by a grand jury as is required in the states and elsewhere. The local legislature will also be able to determine whether trials under local law in civil and in criminal cases will be before juries. This additional flexibility permits the local legislature to mold the procedures to fit local conditions and experience. Under Section 402(b) the rules which are determined by the local legislature will also be applicable when a local case is tried in the federal District Court for the Northern Mariana Islands. Federal cases, however, will have to be tried before juries when required under federal law.

Subsection (a) also provides that other provisions of or amendments to the Constitution of the United States which do not apply of their own force within the Northern Mariana Islands will be applicable only with the permission of the local government and of the Government of the United States. This assures that future amendments to the United States Constitution can be reviewed before they become applicable to the Northern Marianas, unless they are so fundamental that they apply of their own force within the Northern Marianas, or unless they are by their terms applicable here.

Subsection (b) is intended to make clear that under no circumstances can anything in Section 501 or, for that matter, any provision in the Covenant, have the effect of prohibiting the local government from imposing land alienation restrictions under Section 805, or from providing for a bicameral legislature as specified under Section 203, or from controlling jury and grand jury procedures in local cases in the Northern Marianas under Section 501. Subsection (b) reveals the clear intention of the negotiating parties that the extension of certain provisions of the Constitution of the United States to the Northern Marianas would not interfere with the authority of the local government with respect to these matters. Those provisions of the United States Constitution applicable to federal government action would not apply to the Northern Marianas Government, which will not be part of the federal government, and the provisions applicable to a State would not be applicable by their terms, so the otherwise unencumbered authority of the local government with respect to the matters just mentioned will not be altered by Subsection (a). Similarly, Subsection (a) is intended to make clear that Subsection (a) is not intended in any way to prohibit the United States Congress from authorizing or requiring any of these actions by the local government or from approving Section 506.

The parties negotiating the Covenant believe that the provisions of the Covenant referred to in Subsection (b) constitute integral parts of the mutual compromises and concessions without which the accession of the Northern Mariana Islands to the United States would not have been possible. The inclusion of any of those provisions in Subsection (b) should not imply that the parties believe that these provisions are in conflict with the Constitution of the United States.

Administration Memorandum:

Section 501

Subsection (a) deals with the applicability of the Constitution of the United States to the Northern Mariana Islands. The formulation of this subsection has been complicated by a certain ambivalence in the decisions of the Supreme Court which hold that the provisions of the Constitution protecting fundamental rights of citizens extend to the territories of the United States by their own force, while the other provisions of the Constitution apply to unincorporated territories, such as the Northern Mariana Islands, only if expressly extended to them. This subsection expressly extends to the Northern Mariana Islands certain provisions of the Constitution as if the Northern Mariana Islands were a State. Those provisions fall into two groups: (a) the basic rights of citizenship which were made applicable to Guam and the Virgin Islands in 1968 in connection with their Elected Governor acts, see 48 U.S.C. 1421b(u), and 1561 (last two paragraphs), as well as the subsequently adopted Twenty-sixth Amendment to the Constitution; and (b) certain provisions of the Constitution limiting the power of Congress and defining the relationship between the Federal Government and the States, which were not relevant to the 1968 legislation. These are in particular Article I, Section 9, Clause 8, Section 10, Clauses 1 and 3.

The subsection exempts proceedings in the local courts—except where required by local law—from the requirements by indictment by grand jury and trial by jury. Similar provisions exist with respect to Guam (48 U.S.C. 1424(b)), and the Virgin Islands (48 U.S.C. 1561, 1616). They are supported by decisions such as *Darr v. United States*, 195 U.S. 138 (1904), and *Balzac v. Puerto Rico*, 258 U.S. 298 (1922), holding that the Constitution does not require jury trials in the local courts of unincorporated territories which do not have the common-law tradition. The subsection also provides that other provisions of the Constitution or future Amendments thereto will become applicable to the Northern Mariana Islands only with the consent of the Government of the United States and the Government of the Northern Mariana Islands, unless, they apply to the Northern Mariana Islands of their own force, i.e., because they relate to "fundamental rights".

Subsection (b) specifically exempts certain provisions of the Covenant from the applicability of the Constitution to the Northern Mariana Islands. They are section 203, providing for a departure from the One-Man One-Vote rule; section 506, which permits a potentially nonuniform rule of naturalization in the Northern Mariana Islands; section 805, which limits the acquisition of property to persons of Northern Mariana Islands descent; and the proviso in Section 501(u) which permits dispensation from the right to jury trial in local court proceedings. This subsection has been inserted only out of superabundance of caution. In the discussion of those provisions it has been pointed out that they are in accord with the Constitution.

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Section 502

(a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

(1) those laws which provide federal services and financial assistance programs and the federal banking

laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

(3) those laws not described in paragraphs (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

(b) The laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will apply to the activities of the United States Government and its contractors in the Northern Mariana Islands.

Effective Date: See Sections 1003(b) and 1004.

Mutual Consent Requirement: No.

Referred to in Sections 503(b), 1003(b).

For the definition of the term 'Northern Mariana Islands' see Section 1005(c).

Note: Cf. Note to Section 703.

Report of Drafting Committee:

Section 502. The interim formula stated in this Section 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 of the United States will have power subject to Section 105 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 to mean "applicable within" as well as "with respect to" the geographic areas mentioned or the people who reside in or who are citizens of those geographic areas.

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). The reference to the Micronesian Claims Act in Subsection (a) is not intended to preclude the Northern Mariana Islands from seeking such amendments to the Act, or increased appropriations for its implementation, as appear appropriate or desirable.

Senate Committee Report:

Section 502.—The purpose of this section is to provide a workable body of law when the new government of the Northern Mariana Islands becomes operative pursuant to section 1003 (b). This section does not relate to the power of Congress to legislate with respect to the Northern Mariana Islands; that issue is dealt with in section 105.

The basic principle underlying section 502 is that the federal laws applicable to Guam and which are of general application to the several States shall also apply to the Northern Mariana Islands. This means in effect that the federal laws applicable to Guam will be extended to the Northern Mariana Islands, unless they are locally restricted to Guam, such as the Organic Act of Guam. See subsection (a) (2).

There are a number of exceptions to that rule. The laws which provide federal services and financial assistance programs, as well as certain banking laws (12 U.S.C. 143, 466 and 601-632) will apply to the Northern Mariana Islands as they apply to Guam and not to the several States. Section 228 of Title II and Title XVI of the Social

Security Act which applies to all the States will not apply to the Northern Mariana Islands, although it is not applicable to Guam. The Public Health Service Act will apply to the Northern Mariana Islands as it applies to the Virgin Islands because its applicability to Guam is uncertain. The Micronesian Claims Act, which authorizes payment for war and post war damages caused by the U.S. and which does not apply to Guam, will apply to the Northern Mariana Islands as it applies to the Trust Territory of the Pacific Islands. See subsection (a) (1).

Federal laws applicable to the Trust Territory of the Pacific Islands which do not fall into any preceding category—in general those federal laws which apply only to the Trust Territory of the Pacific Islands—but not their amendments unless specifically made applicable to the Northern Mariana Islands, will apply to the Northern Mariana Islands until the termination of the Trusteeship. See subsection (a) (3).

Subsection (b) provides that with respect to the activities of the United States and its contractors in the Northern Mariana Islands, the federal laws concerning coastal shipments and the conditions of employment, including wages and hours, will be applicable. This provision is important because those laws will be generally inapplicable to the Northern Mariana Islands until the Congress undertakes to fully apply these laws to the Northern Mariana Islands as provided in section 503(b) and (c).

The interim procedure stated in this Section 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 of the United States will have power subject to Section 105 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 to mean "applicable within" as well as "with respect to" the geographic areas mentioned or the people who reside in or who are citizens of those geographic areas.

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. 460, and 601-632, respectively) and Section 5191 of the Revised Statutes (12 U.S.C. 143). The reference to the Micronesian Claims Act in Subsection (a) is not intended to preclude the Northern Mariana Islands from seeking such amendments to the Act, or increased appropriations for its implementation, as appear appropriate or desirable.

House Committee Report:

Section 502.—Subsection (a) of this section contains a formula for determining the initial manner in which federal laws other than the United States Constitution will apply to the Northern Marianas.

Subsection 502(a) (1) assures that: laws which provide federal services and financial assistance programs for the States and territories will apply to the Northern Marianas as they apply to Guam; Section 228 of Title II and Title XVI of the United States Social Security Act will apply in the Northern Marianas as they apply in the States; the federal banking laws will apply as they apply in Guam; the Public Health Service Act will apply as it does in the Virgin Islands; the Micronesian Claims Act will continue to apply to the Northern Marianas as it applies to the Trust Territory of the Pacific Islands.

Subsection (a) (2) is the general formula for the application of federal laws. It contains a two-part test: applicability to Guam and applicability generally to the states.

Subsection (a) (3) provides that those federal laws which are not dealt with by subparagraphs (1) and (2) and which are applicable to the Trust Territory will continue to be applicable to the Northern Marianas.

Subsection 502(b) provides that the laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will be applicable to the activities

of the United States Government and its contractors in the Northern Mariana Islands.

MPSC Memorandum:

Section 502

This Section deals with the general applicability of United States laws to the Northern Mariana Islands under the new status.

Subsection (a) contains a formula for determining the initial manner in which federal laws other than the United States Constitution will apply to the Northern Marianas. This formula was devised for several reasons. First, it is necessary and appropriate to have a full body of federal law applicable to the Northern Marianas when the new Government of the Northern Marianas comes into effect. Second, it was not possible for the MPSC and the United States delegation to review each federal law to determine whether and how it should apply. For these reasons, a formula was developed which is based on laws which apply both to Guam and to the states of the union. Under Section 504 a Commission on Federal Laws will be established which, after a review of each federal law taking into account the policies of the Covenant and the local conditions in the Northern Marianas, will make recommendations to Congress concerning the application of these laws.

The formula in Subsection (a) 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 the power consistent with the Covenant to alter the manner and extent to which laws covered by the formula apply to the Northern Marianas, 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 Marianas into a territory or possession of the United States prior to termination of the Trusteeship Agreement. 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 Marianas.

The phrases used throughout Subsection (a) "applicable to Guam" or "applicable to the Trust Territory of the Pacific Islands" are 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, 18 U.S.C. § 3182, will be applicable with respect to the Northern Marianas in the same manner and to the same extent as they are applicable with respect to Guam or a state.

It is also understood that the term "laws" is broad enough to include executive orders and regulations of federal agencies which have the force and effect of law. It is anticipated that the executive branch of the United States Government will make appropriate changes consistent with the Covenant in executive orders and regulations necessary to implement Section 502 and the remainder of the Covenant.

Subsection 502(a)(1) assures that certain significant laws apply in certain ways:

Laws which provide federal services and financial assistance programs for the States and territories will apply to the Northern Marianas as they apply to Guam. These laws are estimated to provide \$3 million every year to the Northern Marianas. They cover a wide range of federal programs and services, more fully discussed under Section 703.

Section 228 of Title II and Title XVI of the U.S. Social Security Act will apply in the Northern Marianas as it applies in the States. Unlike Guam, where provisions for the needy, aged, blind and disabled are less generous than in the States, the Northern Marianas will receive the full benefit of the Act.

The federal banking laws will apply as they apply in Guam. These federal laws are generally designed to protect depositors and facilitate the efficient operation of a national banking system in the United States. For the most part the federal banking laws apply in the states in the same way as they apply in the territories and the Commonwealth of Puerto Rico, but there are certain differences which are intended to assure that all the financial resources needed to promote economic development are available. Such resources are not usually available from local sources alone. It is expected that the Commission on Federal Laws established by Section 504 will review the application of the federal banking laws to assure that there is adequate local control over important financial institutions. It is also important to note the Government of the Northern Mariana Islands will have the authority to charter local banks and other financial institutions similar to that possessed by the States.

The Public Health Service Act will apply as it does in the Virgin Islands. It appears likely that the Public Health Service Act applies in full in Guam, and therefore might have been covered as a law providing a federal service and financial assistance program under this subsection. However, there has in the past been some confusion about this and in view of the importance of many of the law's provisions, including those relating to health maintenance organizations, it appeared the safest course to provide that the Public Health Service Act would apply as it applies in the Virgin Islands, where it is clearly applicable in its entirety.

The Micronesian Claims Act will continue to apply to the Northern Marianas as it applies to the Trust Territory of the Pacific Islands. This Act is not applicable in Guam or the states and therefore special provision had to be made to assure that payments would continue to be available to those who are entitled to payments for war related damage. Once the Covenant has been approved and the continued applicability of the Act is assured, it would be appropriate for the Northern Marianas, through its local government and the Resident Representative in Washington to which it will be entitled under Section 901, to press for such amendments to the Act and additional appropriations as are needed to ensure that adequate payment for damages is made.

Subsection (a)(2) is the general formula for the application of federal laws. It contains a two-prong test: applicability to Guam and applicability generally to the states. This test is employed for two reasons. First, it is intended to avoid the application to the Northern Marianas of legislation which is uniquely applicable to Guam, such as the Guam Organic Act or laws providing for certain public works on that island alone. Second, it is intended to prevent the application of laws so as to reach intraterritorial matters within the Northern Mariana Islands where similar intrastate matters within the states are not reached. To reach such matters in the Northern Marianas would be inconsistent with the

guarantee of local self-government contained in the Covenant. This Subsection also removes all doubt by assuring that certain very old "territorial" laws passed by the United States would not apply to the Northern Marianas. These also would have been inconsistent with local self-government. The result of this Subsection will be the application of a wide variety of federal laws to the Northern Marianas, selected because of their applicability to Guam and to the States.

Subsection (a)(3) provides that those laws which are not dealt with by subparagraphs (1) and (2) and which are applicable to the Trust Territory will continue to be applicable to the Northern Marianas. However, subsequent amendments to such laws will not be applicable to the Northern Marianas unless specifically made so applicable. Upon the termination of the Trusteeship Agreement, laws which are applicable to the Northern Marianas solely because of this subsection will cease to be applicable. The purpose of this Subsection is to assure that the formula for the interim applicability of laws stated in Section 502 does not miss any important laws which are presently applicable here. Between the effective date of this Subsection and the time that the Trusteeship terminates those laws can be reviewed by the Commission on Federal laws established by Section 504 to determine whether their continued applicability is necessary and appropriate. One example of a law which will be made applicable by Subsection (a)(3), and which probably should be continued in its application, is 26 U.S.C. § 872(b)(4), which deals with special federal tax treatment of bonds bought by persons within the Trust Territory. Subsection (a)(3) also serves the valuable function of assuring that after the new Government of the Northern Marianas comes into effect, but prior to the termination of the Trusteeship, the United States Congress can amend laws applicable to the Trust Territory without inadvertently making those amendments applicable to the Northern Marianas.

Subsection 502(b) provides that the laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will be applicable to the activities of the United States Government and its contractors in the Northern Mariana Islands. This express provision is necessary because of the general inapplicability of these laws under Subsections 503(b) and (c) discussed below.

Administration Memorandum:

SECTION 502

The purpose of this section is to provide a workable body of law when the new government of the Northern Mariana Islands becomes operative pursuant to section 1003(b). This section does not relate to the power of Congress to legislate with respect to the Northern Mariana Islands; that issue is dealt with in section 105.

The basic principle underlying section 502 is that the federal laws applicable to Guam and which are of general application to the several States shall also apply to the Northern Mariana Islands. This means in effect that the federal laws applicable to Guam will be extended to the Northern Mariana Islands, unless they are locally restricted to Guam, such as the Organic Act of Guam. See subsection (a) (2).

There are a number of exceptions to that rule. The laws which provide federal services and financial assistance programs, as well as certain banking laws (12 U.S.C. 143, 466 and 601-632) will apply to the Northern Mariana Islands as they apply to Guam and not to the several States. Section 228 of Title II and Title XVI of the Social Security Act which applies to all the States will apply to

the Northern Mariana Islands, although it is not applicable to Guam. The Public Health Service Act will apply to the Northern Mariana Islands as it applies to the Virgin Islands because its applicability to Guam is uncertain. The Micronesian Claims Act, which authorizes payment for war and post war damages caused by the United States and which does not apply to Guam, will apply to the Northern Mariana Islands as it applies to the Trust Territory of the Pacific Islands. See subsection (a) (1).

Federal laws applicable to the Trust Territory of the Pacific Islands which do not fall into any preceding category—in general those federal laws which apply only to the Trust Territory of the Pacific Islands—but not their amendments unless specifically made applicable to the Northern Mariana Islands, will apply to the Northern Mariana Islands until the termination of the Trusteeship. See subsection (a) (3).

Subsection (b) provides that with respect to the activities of the United States and its contractors in the Northern Mariana Islands, the federal laws concerning coastal shipments and the conditions of employment, including wages and hours, will be applicable. This provision is important because those laws will be generally inapplicable to the Northern Mariana Islands until the Congress undertakes to fully apply these laws to the Northern Mariana Islands as provided in section 503(b) and (c).

Section 503

~~Section 503.~~ The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable

to them by the Congress by law after termination of the Trusteeship Agreement:

(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

(b) except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: No.

Referred to in Sections 506(a), 1003(a).

For definition of the term Northern Mariana Islands, see Section 1005(b)

Report of the Drafting Committee:

Subsection 503(a). 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 or by the Government of the Northern Mariana Islands.

Senate Committee Report:

Section 503.—This section deals with certain laws of the United States which are not now applicable to the Northern Mariana Islands and provides that they will remain inapplicable except in the man-

ner and to the extent that they are made applicable by specific legislation enacted after the termination of the Trusteeship. These laws are:

The Immigration and Naturalization Laws (subsection (a)). The reason this provision is included is to cope with the problems which unrestricted immigration may impose upon small island communities. Congress is aware of those problems. See, e.g., *Alien Labor Program in Guam*, Hearing before the Special Study Subcommittee of the Committee on the Judiciary, House of Representatives, 93d Cong., 1st Sess., pp. 19-25. It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement, and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands. Section 506 provides for a limited applicability of that Act in the interim period for the benefit of the children and immediate relatives of permanent residents of the Northern Mariana Islands.

Other laws covered by section 503 are the coastwise laws of the United States and the prohibitions against foreign vessels landing fish or unfinished fish products in the United States. Subsection (b). The immediate introduction of those laws into the Northern Mariana Islands may cause serious economic dislocation. For that reason their introduction should await special scrutiny to be made after the establishment of the Commonwealth.

The same consideration applies to the introduction of the Minimum Wage Laws. (Subsection (c)). Congress realizes that the special conditions prevailing in the various territories require different treatment. 29 U.S.C. 206. See the specific provisions relating to American Samoa, Puerto Rico and the Virgin Islands. In these circumstances, it would be inappropriate to introduce the Act to the Northern Mariana Islands without preliminary studies. There is nothing which would prevent the Northern Mariana Islands from enacting their own Minimum Wage Legislation. Moreover, as set forth in section 502(b), the activities of the United States and its contractors in the Northern Mariana Islands will be subject to existing pertinent Federal Wages and Hours Legislation.

House Committee Report:

Section 503.—This section deals with certain laws of the United States, not presently applicable to the Northern Marianas and provides that these laws will not apply to the Northern Marianas prior to termination of the Trusteeship. They will not apply after termination until the Congress of the United States specifically acts to make them applicable.

Subsection 503(a) provides that until Congress acts to make the immigration and naturalization laws applicable, the Northern Marianas will have local control over immigration.

Subsection 503(b) provides that the coastwise shipping laws of the United States and the laws of the United States which prohibit foreign vessels from landing fish or unfinished fish products in the United States will not apply except in the manner and to the extent Congress should determine, except to the extent provided in Section 502(b) relative to the United States Government and its contractors.

Subsection (c) provides that the federal minimum wage provisions will not presently extend to the Northern Mariana Islands to the extent they apply to private employers and employees.

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MPSC Memorandum:

Section 503

Section 503 deals with certain important laws of the United States, not presently applicable to the Northern Marianas. It provides that these laws will not apply to the Northern Marianas prior to termination of the Trusteeship and will not even apply after termination unless and until the Congress of the United States specifically acts to make them applicable.

Section 503(a) deals with the immigration and naturalization laws of the United States. These laws will not apply until, after termination, Congress acts to make them applicable either as they are applicable in other areas under the American flag, or in some special way which takes into account the particular conditions in existence at that time in the Northern Marianas. Until and unless Congress so acts, the Northern Marianas will have local control over immigration. This is a degree of control which is not enjoyed by any territory or even by the Commonwealth of Puerto Rico. Upon the establishment of the new Government of the Northern Marianas, the immigration laws of the Trust Territory will become effective as the immigration laws of the Northern Mariana Islands. These laws are subject to change by the popularly elected Legislature of the Northern Mariana Islands. These are the laws which will govern immigration into the Northern Marianas.

Subsection (a)(1) is subject to qualification by Section 506, but this does not undermine local control of immigration. Section 506 is designed to assure that even though the United States immigration and naturalization laws do not apply to the Northern Marianas, close relatives of persons in the Northern Marianas can come to the Northern Marianas, live here for the requisite period of time, and become U.S. citizens. If Section 506 had not been included, this would not be possible. The details of Section 506 are discussed below.

Section 503(a)(2) deals with the coastwise shipping laws of the United States and the laws of the United States which prohibit foreign vessels from landing fish or unfinished fish products in the United States. The coastwise laws are generally applicable throughout the United States and apply to Guam. Because shipping rates on American vessels are higher than on foreign vessels, the application of the coastwise laws, also known as the "Jones Act", can have a detrimental effect on local industry and can significantly increase the cost of consumer products. It is therefore desirable to keep these laws from applying until at least after termination of the Trusteeship. The other set of laws described in this

Subsection, those dealing with the landing of fish and unfinished fish products by foreign vessels, would probably not apply to the Northern Mariana Islands under the formula found in Section 502 in any event, for it appears that these laws do not apply to Guam. However, this matter was not entirely clear and so out of an abundance of caution the Northern Marianas is specifically exempted from these laws. The combination of exemptions found in Subsection 503(b) may permit the establishment of a fish processing industry in the Northern Marianas comparable to that established in American Samoa which also enjoys the exemptions contained in this Subsection.

Subsection (c) provides that the general minimum wage provisions contained in federal law, as they apply to private employers and employees, will not be made applicable to the Northern Marianas until Congress acts to make them applicable after termination of the Trusteeship Agreement. After extensive study the MPSC was convinced that the local economy in the Northern Marianas cannot now support the minimum wage laws which are generally applicable in the United States. These laws are based on the cost of living and prevailing wage levels in the highly developed American economy. Imposition of these requirements on private employers in the Northern Marianas prematurely might force many employers out of business and contribute to a substantial increase in the cost of living. The Government of the Northern Marianas will have the authority to set its own minimum wage laws for private employers, as well as for its own employees, if such laws appear appropriate. These laws—unlike the Federal laws—can be adjusted to suit local conditions. Guam has this authority, and its minimum wage law now requires a higher minimum wage than the United States minimum wage. The Northern Marianas will be able to do the same thing if it wishes. Under Subsection 502(b) employees of the United States and the United States military and its contractors will receive the minimum wage in accordance with federal law. It should be noted that the other provisions of the federal Fair Labor Standards Act, which deal with such matters as maximum hours and overtime pay, will be applicable to the Northern Marianas under the formula stated in Section 502(a).

Administration Memorandum:

SECTION 503

This section deals with certain laws of the United States which are not now applicable to the Northern Mariana Islands and provides that they will remain inapplicable except in the manner and to the extent that they are made applicable by specific legislation enacted after the termination of the Trusteeship. These laws are:

The Immigration and Naturalization Laws (subsection (a)). The reason this provision is included is to cope with the problems which unrestricted immigration may impose upon small island communities. Congress is aware of those problems. See, e.g., *Alien Labor Program in Guam*, Hearing before the Special Study Subcommittee of the Committee on the Judiciary, House of Representatives, 93d Cong., 1st Sess., pp. 19-25. It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands. Section 506 provides for a limited applicability of that Act in the interim period for the benefit of the children and immediate relatives of permanent residents of the Northern Mariana Islands.

Other laws covered by section 503 are the coastwise laws of the United States and the prohibitions against foreign vessels landing fish or unfinished fish products in the United States. Subsection (b). The immediate introduction of those laws into the Northern Mariana Islands may cause serious economic dislocation. For that reason their introduction should await special scrutiny to be made after the establishment of the Commonwealth.

The same consideration applies to the introduction of the Minimum Wage Laws. (Subsection (c)). Congress realizes that the special conditions prevailing in the various territories require different treatment. 29 U.S.C. 206. See the specific provisions relating to American Samoa, Puerto Rico and the Virgin Islands. In these circumstances, it would be inappropriate to introduce the Act to the Northern Mariana Islands without preliminary studies. There is nothing that would prevent the Northern Mariana Islands from enacting their own Minimum Wage Legislation. Moreover, as set forth in section 502(b), the activities of the United States and its contractors in the Northern Mariana Islands will be subject to existing pertinent Federal Wages and Hours Legislation.

Section 504

Section 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands, the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

Effective Date: See Section 1003(a).
Mutual Consent Requirement: No.
Referred to in Sections 1003(a).
Field definition of the term Northern Mariana Islands see Section 1005(b).
Report of the Drafting Committee:

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.

Senate Committee Report:

Section 504.—This section provides for the establishment of a Commission on Federal Laws to make recommendations to the Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and which applicable laws shall be made inapplicable. A similar Commission was established in the Organic Act of Guam, 48 U.S.C. 1421c. Congress did not act immediately on its voluminous report. Most of its recommendations, however, were ultimately put into effect. It is believed that the work of this Commission will be greatly simplified by section 502 which extends to the Northern Mariana Islands a substantial body of federal law now applicable to Guam. The Commission will consist of seven persons, at least four of whom must be citizens of the Trust Territory of the Pacific Islands, who have been domiciled in the Northern Mariana Islands for at least five years. The United States will bear the cost of the work of the Commission, but not the salaries of the four Commissioners domiciled in the Northern Mariana Islands.

House Committee Report:

Section 504.—Section 504 provides that the President of the United States will appoint a Commission on Federal Laws to survey the laws of the United States and make recommendations to the United States Congress as to which laws should be made applicable to the Northern Marianas and to what extent and in what manner.

MPSC Memorandum:

Section 504

Section 504 provides that the President of the United States will appoint a Commission on Federal laws to survey the laws of the United States and make recommendations to the United States Congress as to which laws should be made applicable to the Northern Marianas and to what extent and in what manner. The Commission will consist of seven persons, at least four of whom must be citizens of the Trust Territory who have been domiciled in the Northern Marianas for at least five years. The members of the Commission will be representative of the various public and private interests concerned with the applicability of United States laws to the Northern Marianas. The Commission on Federal Laws must make its final report or recommendations to the United States Congress within one year after termination of the Trusteeship. Before that time the Commission will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Marianas to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions in the Northern Marianas, the policies embodied in the federal law, and the provisions and purposes of the Covenant itself.

The MPSC has expressed the view that the Commission should begin work promptly after it is established to determine the precise effect of the formula for the applicability of laws stated in Section 502, and that the Commission should make recommendations to the Congress of such modifications in the formula as it finds are necessary and appropriate. For example, the federal banking laws will apply in the Northern Marianas as they do in Guam under Section 502(a)(1). The MPSC believes that the Commission should investigate the application of the banking laws in this regard to assure that they fully protect the Marianas interest in local control of important financial institutions. The Commission may recommend appropriate changes in the law if it finds that this is not so. In addition, the MPSC believes that there are important decisions to be made about laws whose primary impact will come after termination of the Trusteeship. A number of federal laws, particularly in the shipping and air transportation fields, prohibit persons or corporations which do not meet certain citizenship requirements from engaging in certain activities. In view of the fact that the people of the Marianas will be unable to become U.S. citizens until termination of the Trusteeship and the possibility that there will be a number of nationals of the United States in the Northern Marianas following termination of the Trusteeship (see Section 302),

the Commission may want to make recommendations to Congress concerning the manner in which such citizenship provisions should apply to the Northern Marianas.

The United States will bear the cost of the work of the Commission. It is understood that this provision means that the United States will pay for the staff work which will be necessary as well as for the expenses and salaries of the members from the United States. However, the United States will not be responsible for the salary of the four commissioners who are domiciled in the Northern Marianas.

Administration Memorandum:

SECTION 504

This section provides for the establishment of a Commission on Federal Laws to make recommendations to the Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and which applicable laws shall be made inapplicable. A similar Commission was established in the Organic Act of Guam, 48 U.S.C. 1421c. Congress did not act immediately on its voluminous report. Most of its recommendations, however, were ultimately put into effect. It is believed that the work of this Commission will be greatly simplified by section 502 which extends to the Northern Mariana Islands a substantial body of federal law now applicable to Guam. The Commission will consist of seven persons, at least four of whom must be citizens of the Trust

Territory of the Pacific Islands, who have been domiciled in the Northern Mariana Islands for at least five years. The United States will bear the cost of the work of the Commission, but not the salaries of the four Commissioners domiciled in the Northern Mariana Islands.

Section 505

Section 505. The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable to the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Covenant or with those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Sections 1003(b).

Senate Committee Report: For the definition of the term "Northern Mariana Islands" see Section 1005 (B).

Section 505.—This section deals with the laws of the Trust Territory of the Pacific Islands and the local laws of the Northern Mariana Islands and provides in general that they will remain in effect to the extent consistent with the Covenant and applicable federal laws, until and unless altered by the Government of the Northern Mariana Islands.

House Committee Report:

Section 505.—This section provides that the laws of the Trust Territory and of the Mariana-Islands District and its local municipalities, and all other executive and district orders of a local nature applicable to the Northern Marianas upon the establishment of the new Government of the Northern Marianas under its own Constitution will continue in force unless altered by the Government of the Northern Marianas, to the extent such laws are not inconsistent with the Covenant or with the applicable provisions of the Constitution, treaties and laws of the United States.

MPSC Memorandum:

Section 505

This Section provides that the laws of the Trust Territory and of the Mariana Islands District and its local municipalities, and all other executive and district orders of a local nature applicable to the Northern Marianas upon the establishment of the new Government of the Northern Marianas under its own Constitution will continue in force until and unless altered by the Government of the Northern Marianas, to the extent such laws are not inconsistent with the Covenant or with the applicable provisions of the Constitution, treaties and laws of the United States. This provision assures that immediately upon the establishment of the new local government under its own Constitution, a fully functioning body of law will be in existence. These laws can be changed entirely or in any manner which the Northern Marianas Legislature determines is appropriate in accordance with its powers under Section 203(c) of the Covenant.

Administration Memorandum:

SECTION 505

This section deals with the laws of the Trust Territory of the Pacific Islands and the local laws of the Northern Mariana Islands and provides in general that it will remain in effect to the extent consistent with the Covenant and applicable federal laws, until and unless altered by the Government of the Northern Mariana Islands.

Section 506

Section 506:

(a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

(c) With respect to aliens who are "immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to "immediate relative" status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the "immediate relative" relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as

defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

Effective Date: See Section 1003(c).
Mutual Consent Requirement: No.
Referred to in Sections 501(b), 503(a) and 1003(c).
Report of the Drafting Committee:

For the definition of the term "Northern Mariana Islands" see Section 1005 (b)

Section 506. To the extent that the United States law does not apply, the Northern Mariana Islands has the power over immigration into its territory. An immediate relative of a United States citizen residing in the Northern Mariana Islands may gain admission to the Northern Mariana Islands in accordance with local law without claiming at that time entitlement to immediate relative status under the United States Immigration and Nationality Act.

Senate Committee Report:

Section 506.—This section contains a number of highly technical provisions necessitated by the circumstance that, while the Immigration and Nationality Act will not be applicable to the Northern Mariana Islands until and unless the Congress so provides, most of the residents thereof will be United States citizens. Subsection (b) is designed to protect the citizenship or nationality status of children born-abroad to permanent residents of the Northern Mariana Islands.

Subsection (c) is intended to enable "immediate relatives" of permanent residents of the Northern Mariana Islands to immigrate under the Immigration and Nationality Act and to become naturalized United States citizens. This provision is enacted under Article IV, Section 3, Clause 2 of the Constitution and therefore need not comply with the uniformity requirement of Article I, Section 8, Clause 4 of the Constitution.

Subsection (d) makes the loss of nationality provisions of the Immigration and Nationality Act applicable to those who acquire United States citizenship pursuant to Article III of the Covenant and Section 506.

It will be noted that until the introduction of the Immigration and Nationality Act into the Northern Mariana Islands the latter will have the power to enact its own Immigration and Nationality laws subject, however, to the requirement of applicable federal law.

House Committee Report:

Section 506.—Section 506 provides for limited application of the Immigration and Nationality Act of the United States to the Northern Marianas.

Subsection (a) provides that the Immigration and Nationality Act applies in the Northern Marianas only for the purposes specified in the remaining subsections.

Subsection (b) assures that if citizens or non-citizen nationals of the United States who permanently reside in the Northern Marianas have a child outside of the United States or the Northern Marianas, the child will not be considered an alien.

Subsection (c) deals with the problem of immediate relatives of citizens of the United States permanently residing in the Northern Marianas. "Immediate relatives" are defined by the Immigration and Nationality Act to be spouses, parents and children. It also provides a method by which the Government of the Northern Marianas may certify that certain persons meet the immediate relative qualification and are lawfully admitted to the Northern Marianas at the time the Trusteeship is terminated.

Subsection (c) also provides that the courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be able to naturalize persons who are eligible to be naturalized in accordance with the limited applicability of the Immigration and Nationality Act provided for in this Subsection and who reside within their respective jurisdictions.

Subsection (d) makes applicable to the Northern Marianas certain portions of the Immigration and Nationality Act which deal with the loss of citizenship or the loss of non-citizenship nationality.

MPSC Memorandum:

Section 506

Section 506 provides for a limited application of the Immigration and Nationality Act of the United States to the Northern Marianas. This provision is necessary because, unlike almost all other areas under the American flag, the Immigration and Nationality Act will not be applicable to the Northern Marianas, at least until and unless Congress acts to make it applicable following termination of the Trusteeship. Because that Act will not be applicable, certain problems could arise which would be bothersome and annoying to the people of the Northern Marianas. These problems relate particularly to children born outside of the United States of persons who are United States citizens who live in the Northern Marianas, and to immediate relatives of persons who live in the Northern Marianas. Since these problems cannot arise until after termination of the Trusteeship, Section 506 is not applicable until that time.

Subsection (a) of this Section provides that the Immigration and Nationality Act applies in the Northern Marianas only for the purposes specified in the remaining subsections. It is important to note that Section 506 is supplementary to the laws of the Northern Mariana Islands. Until and unless Congress acts to make it otherwise after termination of the Trusteeship, the laws of the Northern Marianas will set the conditions under which people will be able to immigrate to the Northern Marianas. This Section provides only for a limited application of federal immigration and naturalization laws for certain purposes.

Subsection (b) assures that if persons who are citizens or non-citizen nationals of the United States who permanently reside in the Northern Marianas have a child outside of the United States or the Northern Marianas, the child will not be considered an alien. Such children born of parents who are non-citizen nationals will be nationals of the United States. Such children born of citizens will be citizens of the United States, as will all persons born in the Northern Marianas and subject to the jurisdiction of the United States after termination of the Trusteeship.

Subsection (c) deals with the problem of immediate relatives of citizens of the United States permanently residing in the Northern Marianas. Immediate relatives are defined to be spouses, parents and children under federal law. Since the Immigration and Nationality Act will not apply to the Northern Marianas, these immediate relatives could not come to the Northern Marianas and become United States citizens after termination of the Trusteeship by their residence here. This might prove to be very bothersome to people in the Northern Marianas, who would not want their immediate relatives to be deterred from moving to the Northern Marianas because they could not become United States citizens there. Accordingly, Subsection (c) provides that the Immigration and Nationality Act will apply with respect to such persons if such persons take certain necessary steps to make it apply. Essentially, under Subsection (c) an immediate relative who wanted to come to the Northern Marianas and become a United States citizen by his residence there would claim immediate relative status under federal law, and follow the procedures established by federal law to enter the Northern Marianas and eventually become a United States citizen. The federal law would apply with respect to this person "commencing when" he made his claim for immediate

relative status. This claim could also be made by an alien immediate relative who had been admitted to the Northern Marianas under local law.

Because there may be some persons who, though they are immediate relatives of persons who become United States citizens under Article III of the Covenant, are not citizens of the Trust Territory and did not move to the Northern Marianas in time to be covered by the provisions of Section 301(c), Subsection (c) of Section 506 provides a method by which the Government of the Northern Marianas may certify that such persons meet the immediate relative qualification and were lawfully admitted to the Northern Marianas at the time the Trusteeship was terminated. This certification will result in a presumption which will permit such a person eventually to become a United States citizen without following all of the procedures which would otherwise be applicable. This provision is of a transitory nature only, for persons who come to the Northern Marianas after termination of the Trusteeship and who meet the immediate relative requirements will be able, once they have been admitted to the Northern Marianas under local law, to invoke the provisions of the Immigration and Nationality Act by appropriate action here. This will permit them to become United States citizens after the other requirements are met.

In sum, it should be emphasized with respect to this aspect of Section 506(c) that the application of the Immigration and Nationality Act which it provides is limited to the special situation involving immediate relatives and that there will be no compulsion on any such immediate relative to enter under federal rather than applicable local law.

Subsection (c) also provides that the Northern Marianas will be deemed to constitute a state for the limited purposes for which the Immigration and Nationality Act of the United States will be applicable to the Northern Marianas under this Section. This assures that residence in the Northern Marianas can count toward the residency requirements provided in the federal law as a requirement for a person to become a United States citizen; but it should be remembered that such residence will count only for persons who are immediate relatives and who enter under the provisions of Subsection (c) of Section 506. Finally, Subsection (c) provides that the courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be able to naturalize persons who are eligible to be naturalized in accordance with the limited applicability of the Immigration and Nationality Act provided for in this Subsection and who reside within their respective jurisdictions.

Subsection (d) makes applicable to the Northern Marianas certain portions of the Immigration and Nationality Act which deal with the loss of citizenship or the loss of non-citizenship nationality. These provisions will be applicable to persons who become United States citizens under Article III as well as those who become United States citizens pursuant to the limited application of the Immigration and Nationality Act under Section 506, just as they are applicable to other United States citizens. These are the standard provisions of United States law which deal with the loss of United States citizenship or noncitizenship nationality under particular circumstances.

Administration Memorandum:

SECTION 506

This section contains a number of highly technical provisions necessitated by the circumstance that, while the Immigration and Nationality Act will not be applicable to the Northern Mariana Islands until and unless the Congress so provides, most of the residents thereof will be United States citizens. Subsection (b) is designed to protect the citizenship or nationality status of children born abroad to permanent residents of the Northern Mariana Islands.

Subsection (c) is intended to enable "immediate relatives" of permanent residents of the Northern Mariana Islands to immigrate under the Immigration and Nationality Act and to become naturalized United States citizens. This provision is enacted under Article IV, Section 3, Clause 2 of the Constitution and therefore need not comply with the uniformity requirement of Article I, Section 5, Clause 4 of the Constitution.

Subsection (d) makes the loss of nationality provisions of the Immigration and Nationality Act applicable to those who acquire United States citizenship pursuant to Article III of the Covenant and Section 506.

It will be noted that until the introduction of the Immigration and Nationality Act into the Northern Mariana Islands the latter will have the power to enact its own Immigration and Nationality laws subject, however, to the requirement of applicable federal law.

ARTICLE VI

Revenue and Taxation

Section 601

Section 601

(a) The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.

(b) Any individual who is a citizen or a resident of the United States, of Guam or of the Northern Mariana Islands (including a national of the United States who is not a citizen), will file only one income tax return with respect to his income, in a manner similar to the

provisions of Section 935 of Title 26, United States Code.

(c) References in the Internal Revenue Code to Guam will be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof or of this Covenant.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Sections 602, 1003(b).

For the definition of the term "Northern Mariana Islands" see Section 100512.

Report of Drafting Committee:

Section 601. 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.

Senate Committee Report:

ARTICLE VI—REVENUE AND TAXATION

Article VI deals with a variety of revenue and taxation provisions, including provisions relating to customs and excise taxes, as well as social security benefits and other matters.

Section 601.—This section deals with the application of the federal income tax laws.

Subsection (a) states that the federal income tax laws of the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the establishment of the new Government of the Northern Mariana Islands.

Under subsection (a) the federal income tax laws will apply as a local territorial income tax in the same manner as those laws are enforced in Guam. It is desirable that Guam and the Northern Mariana Islands have coordinated tax laws since they operate in the same economic and geographic sphere.

The operation of the federal income tax laws in the Northern Mariana Islands under this subsection can be summarized as follows. The income taxes of the Northern Mariana Islands will be determined not by applying the United States income tax laws directly, but by substituting the words "Northern Mariana Islands" for the words

"United States" wherever they appear in the Internal Revenue Code. These taxes will be collected by the Government of the Northern Mariana Islands.

Given the general level of incomes in the Northern Mariana Islands it appears very likely that for a number of years the impact of the federal tax code as a local territorial income tax will not be significant. However, the Government of the Northern Mariana Islands will, as noted under section 602, have the authority to impose additional local taxes.

Subsection (b) of this section assures that persons who are residents of the Northern Mariana Islands will file only one income tax return.

Subsection (c) provides that references in the Internal Revenue Code to Guam will be deemed to also refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent of such sections or of the Covenant. This assures that the benefits which are available to Guam under the Internal Revenue Code will also be available to the Northern Mariana Islands. These benefits include, for example, 26 U.S.C. § 7653(b) which exempts articles shipped from the United States to Guam from certain federal excise taxes.

Following is a table comparing the maximum taxes paid by various size families with various incomes under U.S. and Trust Territory income tax laws.

COMPARISON OF INCOME TAX PAID BY FAMILIES OF 4, 6, AND 8 PERSONS UNDER UNITED STATES AND TPTI INCOME TAXES, 1974

| Family income | Family of 4 persons | | Family of 6 persons | | Family of 8 persons | |
|---------------|---------------------|----------|---------------------|----------|---------------------|----------|
| | U.S. tax | T.T. tax | U.S. tax | T.T. tax | U.S. tax | T.T. tax |
| \$4,000 | 0 | \$170 | 0 | \$120 | 0 | \$120 |
| \$5,000 | \$102 | 150 | 0 | 150 | 0 | 150 |
| \$6,000 | 249 | 180 | \$126 | 180 | 0 | 150 |
| \$7,500 | 488 | 275 | 330 | 225 | \$105 | 275 |
| \$10,000 | 901 | 300 | 715 | 300 | 450 | 300 |
| \$12,500 | 1,308 | 375 | 1,147 | 375 | 858 | 375 |
| \$15,000 | 1,870 | 450 | 1,402 | 450 | 1,285 | 450 |

House Committee Report:

Article VI—Revenue and Taxation

Section 601.—This section deals with the application of the federal income tax laws.

Subsection (a) provides that the federal income tax laws of the United States will come into force in the Northern Marianas as a local territorial income tax on the first day of January following the establishment of the new Government of the Northern Marianas.

Under Subsection (a), revenue laws will operate in the Northern Mariana Islands as the United States federal income tax laws operate in Guam.

Subsection (b) provides that persons who are residents of the Northern Marianas will file only one income tax return, depending on the taxpayer's residence at the end of the taxable year.

Subsection (c) provides that references in the Internal Revenue Code to Guam will be deemed to also refer to the Northern Marianas, where not otherwise distinctly expressed or manifestly incompatible with the intent of such sections or of the Covenant.

MPSC Memorandum:

ARTICLE VI—REVENUE AND TAXATION

Article VI deals with a variety of revenue and taxation provisions, including provisions relating to customs and excise taxes, as well as social security benefits and other matters.

Section 601

This Section deals with the application of the federal income tax laws.

Subsection (a) states that the federal income tax laws of the United States will come into force in the Northern Marianas as a local territorial income tax on the first day of January following the establishment of the new Government of the Northern Marianas. Prior to that time the income tax laws of the Trust Territory, as modified by the local legislature pursuant to its authority, will be applicable, though after separate administration is accomplished the income taxes will be paid to the local Northern Marianas Government.

Under Subsection (a) the federal income tax laws will apply as a local territorial income tax in the same manner as those laws are enforced in Guam. This system is a sound one and it apparently works well in Guam. Certain problems which had plagued the operation of the federal tax law as a local tax law—called the "mirror image system"—in Guam have now been solved. It is desirable that Guam and the Northern Marianas have coordinated tax laws since they operate in the same economic and geographic sphere.

The operation of the federal income tax laws in the Northern Marianas under this Subsection can be summarized as follows. Northern Marianas income taxes will be determined not by applying the United States income tax laws, but by substituting the words "Northern Marianas" for the words "United States" wherever they appear in the Internal Revenue Code. These taxes will generally be paid to the Government of the Northern Marianas and will be administered and enforced by the local Government.

Given the general level of incomes in the Northern Marianas, it appears very likely that for a number of years the impact of the federal tax code as a local territorial income tax will not be significant. Moreover, as is noted under Section 602, the Government of the Northern Marianas will have the complete authority to rebate taxes received by it under the local territorial income tax based on income derived from the Northern Marianas (which will be virtually all income for almost all persons here), and so can adjust the impact of the tax to suit local conditions. Moreover, the Government of the Northern Marianas will, as noted under Section 602, have the authority to impose additional local taxes which are needed.

The people of the Marianas currently pay approximately \$2.5 million in Trust Territory income taxes. Within a year these taxes probably will increase to more than \$3.0 million as a result of increases in Marianas incomes. While U.S. tax rates are much higher than Trust Territory tax rates, it is not likely that the total tax burden of the people of the Marianas will be increased by the application of the federal tax laws. The U.S. income tax is progressive and only people with very large incomes pay significant taxes.

Following is a table comparing the maximum taxes paid by various size families with various incomes under U.S. and Trust Territory income tax laws.

COMPARISON OF INCOME TAX PAID BY FAMILIES OF 4, 6, AND 8 PERSONS UNDER UNITED STATES AND TRUST TERRITORY OF THE PACIFIC ISLANDS INCOME TAXES, 1974

| Family income | Family of 4 persons | | Family of 6 persons | | Family of 8 persons | | | |
|---------------|---------------------|----------|---------------------|----------|---------------------|----------|-------|-------|
| | U.S. tax | T.T. tax | U.S. tax | T.T. tax | U.S. tax | T.T. tax | | |
| \$4,000 | \$0 | \$120 | \$4,000 | \$0 | \$120 | \$4,000 | \$0 | \$120 |
| \$5,000 | 102 | 150 | \$5,000 | 0 | 150 | \$5,000 | 0 | 150 |
| \$6,000 | 249 | 180 | \$6,000 | 125 | 180 | \$6,000 | 0 | 180 |
| \$7,500 | 488 | 225 | \$7,500 | 330 | 225 | \$7,500 | \$105 | 225 |
| \$10,000 | 901 | 300 | \$10,000 | 715 | 300 | \$10,000 | 450 | 300 |
| \$12,500 | 1,308 | 375 | \$12,500 | 1,142 | 375 | \$12,500 | 858 | 375 |
| \$15,000 | 1,820 | 450 | \$15,000 | 1,402 | 450 | \$15,000 | 1,285 | 450 |

Section 601 of the Government does not make the federal unemployment tax or benefits derived therefrom applicable to the Northern Marianas. These laws are not applicable to Guam either. It appears preferable for the Northern Marianas to provide its own unemployment benefits and an appropriate level of taxation to support those benefits, rather than to participate in the federal unemployment tax system and be subject to its high tax rates.

Subsection (b) of this Section assures that persons who are residents of the Northern Marianas will file only one income tax return. This is a desirable simplification which results from the application of the federal income tax laws as a local territorial tax. Under Section 935 of the Internal Revenue Code the income tax return will be filed with only one jurisdiction, Guam, United States or the Northern Marianas, depending on the taxpayer's residence at the end of the taxable year. The taxpayer's entire tax liability is discharged by paying a single tax to the jurisdiction where the return is filed.

Subsection (c) provides that references in the Internal Revenue Code to Guam will be deemed to also refer to the Northern Marianas, where not otherwise distinctly expressed or manifestly incompatible with the intent of such sections or of the Covenant. This assures that the benefits which are available to Guam under the Internal Revenue Code will also be available to the Northern Marianas. For example, under 26 U.S.C. § 7653(b) articles which are shipped from the United States to Guam are free of certain federal excise taxes. This has the effect of making such articles cheaper to purchase in Guam than in other locations. The same will be true in the Northern Marianas.

Administration Memorandum:

SECTION 601

This section deals with the application of the federal income tax laws.

Subsection (a) states that the federal income tax laws of the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the establishment of the new Government of the Northern Mariana Islands.

Under subsection (a) the federal income tax laws will apply as a local territorial income tax in the same manner as those laws are enforced in Guam. It is desirable that Guam and the Northern Mariana Islands have coordinated tax laws since they operate in the same economic and geographic sphere.

The operation of the federal income tax laws in the Northern Mariana Islands under this subsection can be summarized as follows. The income taxes of the Northern Mariana Islands will be determined not by applying the United States income tax laws directly, but by substituting the words "Northern Mariana Islands" for the words "United States" wherever they appear in the Internal Revenue Code. These taxes will be collected by the Government of the Northern Mariana Islands.

Given the general level of incomes in the Northern Mariana Islands it appears very likely that for a number of years the impact of the federal tax code as a local territorial income tax will not be significant. Moreover, under section 602, the Government of the Northern Mariana Islands will have authority, similar to that enjoyed by the Government of Guam, to rebate income taxes collected on income derived from the Northern Mariana Islands and so will be able to adjust the impact of the tax to suit local conditions. Moreover, the Government of the Northern Mariana Islands will, as noted under section 602, have the authority to impose additional local taxes.

Subsection (b) of this section assures that persons who are residents of the Northern Mariana Islands will file only one income tax return.

Subsection (c) provides that references in the Internal Revenue Code to Guam will be deemed to also refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent of such sections or of the Covenant. This assures that the benefits which are available to Guam under the Internal Revenue Code will also be available to the Northern Mariana Islands. These benefits include, for example, 26 U.S.C. § 7653(b) which exempts articles shipped from the United States to Guam from certain federal excise taxes.

16706

Section 602

Section 602.

The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under Section 601, as it deems appropriate and provide for the rebate of any taxes received by it, except that the power of the Government of the Northern Mariana Islands to rebate collections of the local territorial income tax received by it will be limited to taxes on income derived from sources within the Northern Mariana Islands.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b).

For definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Senate Committee Report:

Section 602.—This section allows the Government of the Northern Mariana Islands to impose taxes in addition to those imposed by the local territorial income tax under section 601. It also provides that the Government of the Northern Mariana Islands may rebate any taxes received by it, except those taxes received by it under the local territorial income tax which were derived from income from sources outside the Northern Mariana Islands. This is similar to the power which Guam has with respect to its local territorial income tax. This authority will allow the Government of the Northern Mariana Islands to adjust the impact of the local territorial income tax to the local conditions in the Northern Mariana Islands.

House Committee Report:

Section 602.—This section specifically recognizes the authority of the Government of the Northern Marianas to impose local taxes in addition to those imposed by the Federal income tax laws under Section 601.

The record of the hearing on H.J. Res. 549 before the Subcommittee established the intent that this section authorizes, among other actions, the providing of rebates on taxes collected and the enactment of surtaxes on income by the Government of the Northern Marianas, and that the assistance of the Internal Revenue Service will be available for such activities to the extent feasible.

16707

MPSC Memorandum:

Section 603

This Section explains in detail the authority of the Government of the Northern Marianas to impose taxes and rebate taxes it received. It states that the Government of the Northern Marianas may by local law impose taxes in addition to those imposed by the local territorial income tax under Section 602. This will be a matter entirely for the local government to determine. Such taxes could include sales taxes or property taxes or taxes on particular commercial or other transactions.

In addition, Section 602 provides that the Government of the Northern Marianas may rebate any taxes received by it, except those taxes received by it under the local territorial income tax which were derived from income from sources outside the Northern Mariana Islands. The local government will not be able to rebate, but will instead have to expend, income taxes it receives under the local territorial income tax derived from sources outside the Northern Marianas. This is similar to the power which Guam has with respect to its local territorial income tax. The power to rebate taxes will mean that the Northern Mariana Islands Government can adjust the impact of the local territorial income tax in any way which it deems appropriate to the local conditions in the Northern Marianas. In effect, it means that the Northern Marianas Government will have complete authority to write its own tax code. For example, it appears that in Guam rebates are given on income taxes collected from Guam businesses so as to encourage the development of new businesses and new jobs. This could be done in the Northern Marianas as well if the local government wishes. Rebates could also be given to individuals. It should be noted that the local government has the explicit authority to rebate any taxes received by it, so it can rebate taxes which are collected by the federal government but transferred to the local government pursuant to Section 703(b).

Administration Memorandum:

SECTION 602

This section allows the Government of the Northern Mariana Islands to impose taxes in addition to those imposed by the local territorial income tax under section 601. It also provides that the Government of the Northern Mariana Islands may rebate any taxes received by it, except those taxes received by it under the local territorial income tax which were derived from income from sources outside the Northern Mariana Islands. This is similar to the power which Guam has with respect to its local territorial income tax. This authority will allow the Government of the Northern Mariana Islands to adjust the impact of the local territorial income tax to the local conditions in the Northern Mariana Islands.

Section 603

Section 603

- (a) The Northern Mariana Islands will not be included within the customs territory of the United States.
- (b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into its territory from any area outside the customs territory of the United States and impose duties on exports from its territory.
- (c) Imports from the Northern Mariana Islands

into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

(d) The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b). (*Northern Mariana Islands, and*)

For definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

(b) and

Report of Drafting Committee:

Subsection 603(b). The 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. However, this Subsection 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 seek appropriate waivers or modifications of its international obligations.

Subsection 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.

Senate Committee Report:

Section 603.—This section deals with customs and other matters relating to trade with respect to the Northern Mariana Islands. Subsection (a) of this section provides that the Northern Mariana Islands will not be included within the customs territory of the United

States, Guam and the Virgin Islands also are outside the customs territory. See 19 U.S.C. 1401 (h) and Tariff Schedules of the United States, General Headnotes 2 and 3. Remaining outside the customs territory will mean that the only import duties on goods entering the Northern Mariana Islands will be those imposed by the local government pursuant to section 603(b), below.

Subsection (b) allows the local government to levy duties on goods imported into the Northern Mariana Islands from areas outside the customs territory of the United States. This power must be exercised in a manner which is consistent with the international obligations of the United States. Goods coming in from the customs territory of the United States will enter the Marianas duty free, just as goods of Northern Mariana Islands origin going into the customs territory will be free of duty under subsection (c). Subsection (b) also allows the Northern Mariana Islands to impose duties on exports from the Northern Mariana Islands again in a manner which is consistent with the international obligations of the United States. At present, the Trust Territory Government imposes duties on certain exports.

Subsection (c) assures that imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States. At present, this would mean generally that exports from the Northern Mariana Islands would enter the customs territory—consisting of the several States and the Commonwealth of Puerto Rico—duty free, provided, generally, that 50 percent or less of the value of the product (whether manufactured, produced or grown) derives from foreign materials. In addition, residents of the United States returning from the Northern Mariana Islands will be entitled to increased personal exemptions provided for in Items 813.30 and 813.31 of the Tariff Schedules of the United States.

The parties believe that the treatment provided for in subsection (c) is consistent with the obligations of the United States under the General Agreement on Tariffs and Trade. However, this subsection is not intended to conflict with the international obligations of the United States and does not require that the United States take action which would be inconsistent with those obligations. In the event such a conflict arises, the United States is obligated to seek appropriate waivers or modifications of its international obligations.

Subsection (d) provides that the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands, and will encourage other countries to consider the Northern Marianas a developing territory for this purpose. Such treatment would obviously be beneficial to the Northern Marianas.

House Committee Report:

Section 603.—This section deals with customs and other matters relating to trade with respect to the Northern Marianas.

Subsection (a) of this section provides that the Northern Marianas will not be included within the customs territory of the United States.

Subsection (b) allows the local government to levy duties on goods imported into the Northern Marianas from areas outside the customs territory of the United States in a manner which is consistent with the international obligations of the United States.

Subsection (c) assures that imports from the Northern Marianas into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

Subsection (d) provides that the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Marianas and will encourage other countries to consider the Northern Marianas a developing territory for this purpose.

MPSC Memorandum:

Section 603

This Section deals with customs and other matters relating to trade with respect to the Northern Marianas.

Subsection (a) provides that the Northern Marianas will not be included within the customs territory of the United States. Guam and the Virgin Islands are outside the customs territory, though the Commonwealth of Puerto Rico is within the customs territory. It is to the advantage of the Northern Marianas to be outside the customs territory, for it permits the Northern Marianas to have a duty-free port. This will mean lower consumer prices in the Northern Marianas and will also encourage the tourist business. It means that goods will enter the Marianas subject to duties imposed by the local government rather than subject to the duties which are imposed by the federal government. This is an important element of local self-government and assures that the duties can be tailored to local conditions.

Subsection (b) contains the assurances that the local government will be able to levy duties on goods imported into the Northern Marianas from areas outside the customs territory of the United States. This power must be exercised in a manner which is consistent with the international obligations of the United States. Goods coming in from the customs territory of the United States will enter the Marianas duty free, just as goods going from the Northern Marianas into the customs territory will be free of duty under Subsection (c). The Commonwealth of Puerto Rico, like the states, cannot impose such duties because it is within the customs territory of the United States. This, too, is an important aspect of local self-government. Subsection (b) also assures that the Northern Marianas can impose duties on exports from the Northern Marianas and these duties, too, will be imposed in a manner which is consistent with the international obligations of the United States—although it appears that there are no such international obligations at this time. At present, there are duties on certain items exported from the Trust Territory and it will be up to the local government to determine whether these export duties should be continued in effect or be dropped or be modified.

Subsection (c) assures that imports from the Northern Marianas into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States. Essentially, this means that Northern Marianas goods will enter the customs territory—consisting of the states and the Commonwealth of Puerto Rico—duty free, provided that 50 percent or less of the value of the product (whether manufactured, produced or grown) derives from foreign materials, and if (in the case of goods manufactured in whole or in part from United States material) there was no refund of United States taxes paid upon export of United States material for

further manufacture from the Mariana Islands. If these conditions are not met, then the goods will enter the customs territory of the United States subject to the usual customs taxes imposed. This treatment of Northern Marianas goods is a significant benefit, for it encourages industry in the Marianas to produce goods which can be shipped duty free into the United States. It should be noted that since Guam is outside the customs territory of the United States, there will be no guarantee that Guam's goods will enter Northern Marianas duty free or that Northern Marianas goods will enter Guam duty free. It is expected, of course, that appropriate arrangements can be developed with Guam to assure the economic development of both areas in an appropriate manner.

It is believed that the treatment provided for in Subsection (c) is consistent with the obligations of the United States under the general agreement on tariffs and trade. However, this Subsection is not intended to conflict with the international obligations of the United States and does not require that the United States take action which would be inconsistent with those obligations. If it should turn out that there is a conflict, the United States is obligated to seek appropriate waivers or modifications of its international obligations.

Subsection (d) provides that the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Marianas, and will encourage other countries to consider the Northern Marianas a developing territory. This obligation on the United States, if it can be successfully carried out, will result in trade advantages which will help the economy of the Northern Marianas. There is a waiver of the General Agreement on Tariffs and Trade which permits preferential tariff treatment of goods exported from developing countries and territories. The purpose of this waiver is to increase export earnings of the developing countries, to promote industrialization and to accelerate their economic growth. Such treatment would obviously be beneficial to the Northern Marianas.

16711

Administration Memorandum:

SECTION 603

This section deals with customs and other matters relating to trade with respect to the Northern Mariana Islands.

Subsection (a) of this section provides that the Northern Mariana Islands will not be included within the customs territory of the United States. Guam and the Virgin Islands also are outside the customs territory, though the Commonwealth of Puerto Rico is within the customs territory. See 19 U.S.C. 1401(h) and Tariff Schedules of the United States, General Headnotes 2 and 3. Remaining outside the customs territory will mean that the only import duties on goods entering the Northern Mariana Islands will be those imposed by the local government pursuant to section 603(b), below.

Subsection (b) allows the local government to levy duties on goods imported into the Northern Mariana Islands from areas outside the customs territory of the United States. This power must be exercised in a manner which is consistent with the international obligations of the United States. Goods coming in from the customs territory of the United States will enter the Marianas duty free, just as goods of Northern Mariana Islands origin going into the U.S. customs territory will be free of duty under subsection (c). Subsection (b) also allows the Northern Mariana Islands to impose duties on exports from the Northern Mariana Islands again in a manner which is consistent with the international obligations of the United States. At present, the Trust Territory Government imposes duties on certain exports.

Subsection (c) assures that imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States. At present, this would mean generally that exports from the Northern Mariana Islands would enter the customs territory—consisting of the several States and the Commonwealth of Puerto Rico—duty free, provided, generally, that 50 percent or less of the value of the product (whether manufactured, produced or grown) derives from foreign materials. In addition, residents of the United States returning from the Northern Mariana Islands will be entitled to increased personal exemptions provided for in Items 813.30 and 813.31 of the Tariff Schedules of the United States.

The parties believe that the treatment provided for in subsection (c) is consistent with the obligations of the United States under the General Agreement on Tariffs and Trade. However, this subsection is not intended to conflict with the international obligations of the United States and does not require that the United States take action which would be inconsistent with those obligations. In that event such a conflict arises, the United States is obligated to seek appropriate waivers or modifications of its international obligations.

Subsection (d) provides that the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands, and will encourage other countries to consider the Northern Marianas a developing territory for this purpose. Such treatment would obviously be beneficial to the Northern Marianas.

Section 604

Section 604.

(a) The Government of the United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

(b) The Government of the Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No.
Referred to in Section 1003(b). *(Northern Mariana Islands and)*
For the definition of the term "Government of the
Northern Mariana Islands" see Section 1005(c).
(b) amf?

Senate Committee Report:

Section 604.—This section deals with excise taxes. Under subsection (a) the United States is permitted to levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

Subsection (b) provides that the Northern Marianas can impose excise taxes on goods manufactured, sold or used or services rendered

here or on goods imported into the Northern Mariana Islands, provided that excise taxes on goods imported into the Northern Mariana Islands will be consistent with the international obligations of the United States.

House Committee Report:

Section 604.—Section 604 deals with excise taxes. Subsection (a) permits the United States to levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Marianas in the same manner and to the same extent as such taxes are applicable within Guam.

Subsection (b) provides that the Northern Marianas can impose excise taxes on goods manufactured, sold or used or services rendered within its territory or on goods imported into the Northern Marianas, provided that excise taxes on goods imported into the Northern Marianas will be consistent with the international obligations of the United States.

MPSC Memorandum:

Section 604

Section 604 deals with excise taxes. Under Subsection (a) the United States is permitted to levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Marianas in the same manner and to the same extent as such taxes are applicable within Guam. This assures that there will be no discrimination between Guam and the Northern Mariana Islands. The proceeds of such taxes will be turned over by the federal government to the Northern Marianas Government in any event under Section 703(b) and, under Section 602(a), can be rebated if the local government wishes. Thus, there are significant protections against the imposition of excise taxes which might otherwise interfere with economic development.

Subsection (b) provides that the Northern Marianas can impose excise taxes on goods manufactured, sold or used or services rendered here or on goods imported into the Northern Marianas, provided that excise taxes on goods imported into the Northern Marianas will be consistent with the international obligations of the United States. This Subsection provides additional assurances that the Northern Marianas will have this authority, which is also ensured under Section 602(a) and Section 203(c) of the Covenant.

16713

Administration Memorandum:

SECTION 604

This section deals with excise taxes. Under subsection (a) the United States is permitted to levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.
Subsection (b) provides that the Northern Marianas can impose excise taxes on goods manufactured, sold or used or services rendered here or on goods imported into the Northern Mariana Islands, provided that excise taxes on goods imported into the Northern Mariana Islands will be consistent with the international obligations of the United States.

Section 605

~~Section 605.~~

Nothing in this Article will be deemed to authorize the Government of the Northern Mariana Islands to impose any customs duties on the property of the United States

or on the personal property of military or civilian personnel of the United States Government or their dependents entering or leaving the Northern Mariana Islands pursuant to their contract of employment or orders assigning them to or from the Northern Mariana Islands or to impose any taxes on the property, activities or instrumentalities of the United States which one of the several States could not impose, nor will any provision of this Article be deemed to affect the operation of the Soldiers and Sailors Civil Relief Act of 1940, as amended, which will be applicable to the Northern Mariana Islands as it is applicable to Guam.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b). *From the "Northern Mariana Islands Act"*

For the definition of the "Government of the Northern Mariana Islands" see Section 1005(c).

(B) am

16714

Senate Committee Report:

Section 605.—This section deals with the immunity from customs duties and taxation of the United States, its activities and instrumentalities and its military and civilian personnel, and provides specifically that the Soldiers and Sailors Civil Relief Act of 1940, as amended, will be applicable in the Northern Mariana Islands as it is applicable to Guam to make clear the local taxing authority provided for in Article VI was not intended to affect the applicability of that Act. The exclusion of military and civilian personnel from Northern Mariana Islands customs duties is to avoid taxation of household and other goods of those who are officially assigned to or officially transferred from duty in the Northern Mariana Islands.

House Committee Report:

Section 605.—This section provides that the Government of the Northern Marianas cannot impose customs duties on the property of the United States, and that it cannot impose any taxes on the property or activities of the United States except to the extent that a state could impose such taxes on such activities and property. This section also provides that the Soldiers and Sailors Civil Relief Act, as amended, will apply to the Northern Marianas as it applies to Guam.

MPSC Memorandum:

Section 605

This Section states two points which would almost undoubtedly have been clear even in its absence.

First, it provides that the Government of the Northern Marianas cannot impose customs duties on the property of the United States, and that it cannot impose any taxes on the property or activities of the United States except to the extent that a state could impose such taxes on such activities and property. Under the supremacy clause of the United States Constitution, the authority of states to impose taxes on the federal government is restricted, though there are circumstances in which certain forms of taxation on certain government-related activities are permissible. Since the supremacy clause contained in Section 102 of the Covenant is similar to that contained in the U.S. Constitution, the same result would have obtained in the Northern Marianas. This Section simply makes that clear, and assures that the relationship between the Northern Marianas and the United States will be the same as the relationship between the states and the United States with respect to taxation of federal property and activities.

Second, the Section provides that the Soldiers and Sailors Civil Relief Act, as amended, will apply to the Northern Marianas as it applies to Guam. This Act is of general application throughout the United States and the territories and provides certain protections for servicemen, including protection against taxation by the jurisdiction in which they happen to be stationed. This law would be

covered by Section 502(a)(2) but it was deemed desirable to make clear that the law will be applicable. It should be noted that federal income taxes collected from servicemen who are stationed in the Northern Marianas will be transferred to the Government of the Northern Marianas under Section 703(b).

Administration Memorandum:

SECTION 605

This section deals with the immunity from customs duties and taxation of the United States, its activities and instrumentalities and its military and civilian personnel. It provides specifically that the Soldiers and Sailors Civil Relief Act of 1940, as amended, will be applicable in the Northern Mariana Islands as it is applicable to Guam to make clear the local taxing authority provided for in Article VI was not intended to affect the applicability of that Act. The exclusion of military and civilian personnel from Northern Mariana Islands customs duties is to avoid taxation of household and other goods of those who are officially assigned to or officially transferred from duty in the Northern Mariana Islands.

Section 606

(a) Not later than at the time this Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the Treasury of the United States, to be held in trust as a separate fund to be known as the "Northern Mariana Islands Social Security Retirement Fund". This fund will be administered by the United States in accordance with the social security laws of the Trust Territory of the Pacific Islands in effect at the time of such transfer, which may be modified by the Government of the Northern Mariana Islands only in a manner which does not create any additional differences between the social security laws of the Trust Territory of the Pacific Islands and the laws described in Subsection (b). The United States will supplement such fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund, so long as the rate of contributions thereto also remains comparable.

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(b) Those laws of the United States which impose excise and self-employment taxes to support or which provide benefits from the United States Social Security System will upon termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States become applicable to the Northern Mariana Islands as they apply to Guam.

(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

(1) the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate Federal Social Security Trust Funds;

(2) prior contributions by or on behalf of persons domiciled in the Northern Mariana Islands to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement

Fund will be considered to have been made to the appropriate federal Social Security Trust Funds for the purpose of determining eligibility of those persons in the Northern Mariana Islands for benefits under those laws; and

(3) persons domiciled in the Northern Mariana Islands who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands will not lose their entitlement and will be eligible for or entitled to benefits under the laws described in Subsection (b).

Effective Date:

See Section 1003(a).

Mutual Consent Requirement:

No.

Referred to in Section 1003(a).

For the definition of the term "domicile" see Section 1005(e).

(b) and

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Senate Committee Report:

Section 606.—This section contains highly technical provisions relating to the transfer of the Social Security System of the Northern Mariana Islands to that of the United States. At present the Northern Mariana Islands are covered by the Social Security System of the Trust Territory of the Pacific Islands which provides for contributions and benefits which are different than those prevailing under the United States system. Upon the approval of the Covenant, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the United States Treasury and held as a separate trust fund. It will be administered by the United States in accordance with the Social Security laws of the Trust Territory of the Pacific Islands.

The laws of the United States relating to Social Security contributions and benefits will be introduced to the Northern Mariana Islands upon the termination of the Trusteeship or at such early date as may be agreed upon by the Government of the Northern Mariana Islands and the Government of the United States.

Subsection (a) provides that no later than the time the Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Marianas will be transferred to the United States and held in trust in a separate fund to be known as the "Northern Mariana Islands Social Security Retirement Fund." The legal date of separation of the two Funds can be established retroactively to coincide with the date of the last valuation of the assets of the Trust Territory Social Security Retirement Fund prior to the approval date of the Covenant. These valuations take place ordinarily at the end of each calendar quarter. Compensating financial arrangements would then be made to take account of the relative changes in the two Funds between the legal date and the actual date of the separation. Since a substantial portion of the assets of the Trust Territory Social Security Retirement Fund consists of private securities, the initial transfer to the United States Treasury can be made in the form of an interest bearing promissory note from that Fund to be redeemed with a reasonable period of time as soon as the Fund has had the opportunity to liquidate a sufficient portion of its assets in an orderly fashion.

The United States will administer the Marianas Social Security System in accordance with the laws of the Trust Territory in effect at the time of such transfer. Although the U.S. Social Security Administration will assume ultimate responsibility for the administration it may find it more efficient and economical to establish a special temporary office to administer the Northern Marianas program under contract rather than to administer the program directly.

As regards the obligation of the U.S. to supplement the Northern Mariana Islands Social Security Retirement Fund, and to assume the costs incurred in establishing the Northern Mariana Islands Social Security Retirement Fund, it is understood these funds will be paid from those authorized and appropriated out of general tax revenues of the United States. The expenses of administering the Northern Mariana Islands Social Security Retirement Fund, once it has been established, will be met from the Fund itself or, if need be, from any of the supplements provided by the United States, as authorized by the legislature of the Northern Mariana Islands.

Subsection (b) assures that the laws of the United States which impose taxes to support to which provide benefits from the United States Social Security System will become applicable to the Northern Marianas as they are applicable to Guam upon termination of the Trusteeship Agreement or at such earlier time as may be agreed to by the Government of the Northern Marianas and the Government of the United States.

Subsection (c) provides that at the time the United States Social Security System becomes applicable in the Northern Marianas, the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate trust funds of the United States Social Security System.

Under Subsection (c) (2), contributions to the Trust Territory Social Security Retirement Fund or to the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate United States Social Security Trust Fund for the purposes of determining eligibility of persons in the Northern Marianas for benefits from the Federal trust funds.

Subsection (c) (3) assures that persons who are eligible for or entitled to social security benefits under the laws of the Trust Territory or the Northern Marianas at the time that the Federal social security laws become applicable, will not lose their entitlements. In the event that the proceeds of the Northern Marianas Social Security Retirement Fund, which are transferred into the appropriate Federal Social Security Trust Funds under Subsection (c) (1), are insufficient to finance the benefits provided in accordance with Subsection (c) (3) subsequent to the transfer any deficiency that is determined to exist will be financed by the authorization and appropriation of funds for this purpose out of general tax revenues of the United States and will not be a charge on the Federal Social Security Trust Funds.

Necessary financial arrangements will be made to assure that persons domiciled in the Northern Mariana Islands who at the time the Covenant becomes effective are entitled or later become entitled to prior service benefits will continue to receive them. Prior service bene-

fits are not specifically addressed in this Section but are an extra amount of pension presently funded by the Trust Territory Government paid on retirement to persons who worked for the Trust Territory Government for more than 5 years prior to the inception of the Trust Territory Social Security System. These benefits will not become a charge on either the Northern Mariana Islands Social Security Retirement Fund or on the Federal Social Security Trust Fund.

House Committee Report:

Section 606.—Section 606 deals with the application of the United States Social Security System to the Northern Marianas.

Subsection (a) provides that not later than the time the Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Marianas will be transferred to the United States and held in trust in a separate fund to be known as the "Northern Marianas Social Security Retirement Fund." The United States will administer the Marianas Social Security System through the United States Social Security Administration in accordance with the laws of the Trust Territory in effect at the time of such transfer.

Subsection (b) assures that the laws of the United States which impose taxes to support or which provide benefits from the United States Social Security System will become applicable to the Northern Marianas as they are applicable to Guam upon termination of the Trusteeship Agreement or at such earlier time as may be agreed to by the Government of the Northern Marianas and the Government of the United States.

Subsection (c) provides that at the time the United States Social Security System becomes applicable in the Northern Marianas, the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate trust fund of the United States Social Security System.

Under Subsection (c) (2), contributions to the Trust Territory Social Security Retirement Fund or to the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate United States Social Security Trust Fund for the purposes of determining eligibility of persons in the Northern Marianas for benefits from the federal trust funds.

Subsection (c) (3) assures that persons who are eligible for or entitled to social security benefits under the laws of the Trust Territory or of the Northern Marianas at the time that the federal social security laws become applicable, will not lose their entitlements.

MPSC Memorandum:

Section 606

Section 606 deals with the application of the United States Social Security System to the Northern Marianas and assures that the people of the Northern Marianas derive maximum benefits from that System.

Subsection (a) provides that not later than the time the Covenant is approved that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Marianas will be transferred to the United States and held in trust in a separate fund to be known as the "Northern Marianas Social Security Retirement Fund." This Fund will be administered by the United States in accordance with the laws of the Trust Territory in effect at the time of such transfer. Such laws may be modified by the Government of the Northern Marianas, but only in a manner which does not create any additional differences between such laws and United States laws. This restriction has been imposed because, as will be seen from Subsection (b), the federal laws will eventually come into effect and it is hoped that the transition will be as easy as possible.

The United States is committed under Subsection (a) to supplement the Northern Mariana Islands Social Security Retirement Fund if necessary to assure that persons receive benefits from that Fund comparable to those they would have received from the Trust Territory Social Security Retirement Fund if there had been no transfer. This obligation is effective so long as the rate of tax imposed to secure contributions to the Northern Marianas Fund is comparable to the rate of tax which had been imposed for contributions to support the Trust Territory Fund at the time the Funds were divided. It is anticipated that the division of the Trust Territory Social Security Fund will occur at the time of separate administration of the Northern Marianas, which will be after the people of the Northern Marianas approve the Covenant, but which may be before the Covenant is finally approved by the United States.

Subsection (b) assures that the laws of the United States which impose taxes to support or which provide benefits from the United States Social Security System will become applicable to the Northern Marianas as they are applicable to Guam upon termination of the Trusteeship Agreement or at such earlier time as may be agreed to by the Government of the Northern Marianas and the Government of the United States. At that point, the full benefits of the United States Social Security System will be applicable and benefits will be available from the Federal Old Age and Survivors Trust Fund, the Federal Disability Trust Fund, the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. At this time as well, those laws of the United States which impose taxes to support the United States Social Security System will become applicable. The reason that the Covenant is structured in a way which does not make the United States social security laws applicable immediately is that the taxes which are imposed to support the social security system are very burdensome as compared to the taxes which are paid by the people of the Northern Marianas today. The Covenant permits the social security benefits and social security taxes to come into effect at a time when that is appropriate in view of the anticipated economic situation in the Northern Marianas. Of course, these laws will become effective in the Northern Marianas no later than termination of the Trusteeship, at which time the entire Covenant will be effective. Prior to the time that the laws of the United States dealing with social security benefits and taxes come into effect, as is noted above under Subsection (a), people in the Marianas will continue to receive at least the levels of benefits and to pay the levels of taxes presently in force.

Subsection (c) provides that at the time the United States social security system becomes applicable in the Northern Marianas, the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate trust fund of the United States Social Security System. This is appropriate since at that time the people of the Northern Marianas will be full participants in the federal system. At the same time, under Subsection (c)(2) contributions to the Trust Territory Social Security Retirement Fund or to the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate United States Social Security Trust Fund for the purposes of determining eligibility of persons in the Northern Marianas for benefits from the federal trust funds. This assures that during the entire time that persons in the Northern Marianas have paid taxes to support the local social security system,

even though those taxes are far lower than the taxes which support the federal system, they will be treated just as if they had paid into the federal system. Thus persons in the Northern Marianas can become eligible for benefits in a manner comparable to the way in which persons in the United States or in Guam become eligible. Finally, Subsection (c)(3) assures that persons who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Northern Marianas at the time that the federal social security laws become applicable here will not lose their entitlements. This is a guarantee that persons who are receiving benefits or are eligible for or entitled to benefits will continue to get them. In addition, under Subsection (c)(3) the level of benefits will immediately increase to the United States level of benefits. Because this is a much higher level than the Trust Territory level of benefits, this Subsection provides a significant economic advantage for the people of the Northern Marianas.

The basic U.S. Social Security System benefits provided to fully insured retired persons are shown in the following table. For retired persons who are not fully insured, and for the blind and disabled, the Supplementary Security Income Program, Title IV of the U.S. Social Security Act, guarantees incomes of \$140 per month for single persons and \$210 for a married couple.

SOCIAL SECURITY BENEFITS PAYABLE TO A FULLY INSURED¹ INDIVIDUAL UNDER THE U.S. SOCIAL SECURITY SYSTEM² AND SOCIAL SECURITY TAXES

| | Single | Married | Maximum Total Family Benefits |
|---|----------|----------|-------------------------------------|
| Average annual covered income of \$3,000: | | | |
| Retirement benefits: | | | |
| Age 62..... | \$155.30 | \$228.20 | \$452.10 |
| Age 65..... | 194.10 | 291.20 | 490.99 |
| Disability Benefits..... | 194.10 | 291.20 | 490.99 |
| Survivors benefits: | | | |
| Widow at age 62 or over..... | (3) | 194.10 | |
| Widow under 62, caring for dependents, or disabled..... | | 145.58 | |
| Dependent child..... | | 145.58 | 291.16 |

¹ A fully insured person has worked 40 quarters, or 10 yrs, in employment covered by social security.
² Amounts are based on benefits payable in June, 1974; there will be increases as the cost of living rises. A cost-of-living increase is built into the U.S. system.
³ Benefits may be paid to single person's surviving dependent parent; or a lump sum may be paid to his estate under the U.S. system.

Note: Medical benefits—U.S. social security includes health insurance, which upon retirement, or in some cases, disability, pays for hospital care. U.S. social security taxes—6.85 percent paid by employer and 6.85 percent paid by employee on salaries and wages (\$14,200 maximum taxed).

Administration Memorandum:

SECTION 606

This section contains highly technical provisions relating to the transfer of the Social Security System of the Northern Mariana Islands to that of the United States. At present the Northern Mariana Islands are covered by the Social Security System of the Trust Territory of the Pacific Islands which provides for contributions and benefits which are different than those prevailing under the United States system. Upon the approval of the Covenant, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the United States Treasury and held as a separate trust fund. It will be administered by the United States in accordance with the Social Security laws of the Trust Territory of the Pacific Islands.

The laws of the United States relating to Social Security contributions and benefits will be introduced to the Northern Mariana Islands upon the termination of the Trusteeship or at such early date as may be agreed upon by the Government of the Northern Mariana Islands and the Government of the United States.

Section 607

(a) All bonds or other obligations issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

(b) During the initial seven year period of financial assistance provided for in Section 702, and during such subsequent periods of financial assistance as may be agreed, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation

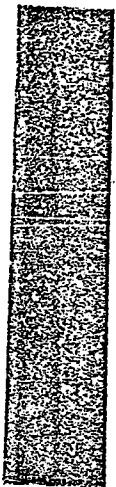
of the property within the Northern Mariana Islands.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No.
Referred to in Section 1003(b).
For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Northern Mariana Islands and

(b) and

Senate Committee Report:



Section 607.—This section deals with the indebtedness of the Government of the Northern Mariana Islands.
Under subsection (a) all bonds or other obligations issued by the local government or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any state or territory of the United States, or by the Commonwealth of Puerto Rico, or by any political subdivision of any of them. Obligations of the Governments of Puerto Rico, Guam and the Virgin Islands enjoy similar privileges. 48 U.S.C. 745, 1423(a), 1574(b)(ii).
Subsection (b) provides that during the initial seven-year period of financial assistance under section 702 of the Covenant, the Government of the Northern Mariana Islands will not authorize any public indebtedness (other than bonds or other obligations of the government payable solely from revenues derived from a particular public improvement or undertaking) in excess of ten percent of the aggregate assessed valuation of the property within the Northern Mariana Islands. Similar provisions are in effect on Guam (48 U.S.C. 1423a) and the Virgin Islands (48 U.S.C. (b)(ii)). For Puerto Rico see 48 U.S.C. 745, as amended by Public Law 87-121. Subsection (b) also provides for such debt limitations during subsequent period of financial assistance as may be agreed.

House Committee Report:

Section 607.—Under Subsection (a), all bonds or other obligations issued by the local government or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any state or territory of the United States, or by any political subdivision of any of them.
Subsection (b) provides that during the initial seven-year period of financial assistance under Section 702 of the Covenant, the Government of the Northern Marianas will authorize no public debt (other than bonds or other obligations of the government payable solely from revenues derived from a particular public improvement or undertaking) in excess of ten percent of the aggregate assessed valuation of the property within the Northern Marianas.

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MPSC Memorandum:

Section 607

This Section deals with the indebtedness of the Government of the Northern Marianas.

Under Subsection (a) all bonds or other obligations issued by the local government or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any state or territory of the United States, or by the Commonwealth of Puerto Rico, or by any political subdivision of any of them. This assures that the local government will be able to borrow money for public purposes at the lowest possible rate, because the bonds or other debt obligations will not be subject to income or property taxes.

Subsection (b) provides that during the initial seven-year period of financial assistance under Section 702 of the Covenant, the Government of the Northern Marianas will authorize no public debt (other than bonds or other obligations of the government payable solely from revenues derived from a particular public improvement or undertaking) in excess of ten percent of the aggregate assessed valuation of the property within the Northern Marianas. This debt limitation is a sensible one which the Northern Marianas would probably follow for its own prudent fiscal purposes in any event. The United States Government, which is providing the funding under Section 702, believes it is an appropriate limitation to be imposed in conjunction with that funding. Subsection (b) also provides that there may be debt limitation (of ten percent or some other figure) during subsequent periods of financial assistance, if both sides agree on such a limitation.

Administration Memorandum:

SECTION 607

This section deals with the indebtedness of the Government of the Northern Mariana Islands.

Under subsection (a) all bonds or other obligations issued by the local government or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any state or territory of the United States, or by the Commonwealth of Puerto Rico, or by any political subdivision of any of them. Obligations of the Governments of Puerto Rico, Guam and the Virgin Islands enjoy similar privileges. 48 U.S.C. 745, 1423(a), 1574(b)(ii).

Subsection (b) provides that during the initial seven-year period of financial assistance under section 702 of the Covenant, the Government of the Northern Mariana Islands will not authorize any public indebtedness (other than bonds or other obligations of the government payable solely from revenues derived from a particular public improvement or undertaking) in excess of ten percent of the aggregate assessed valuation of the property within the Northern Mariana Islands. Similar provisions are in effect on Guam (48 U.S.C. 1423a) and the Virgin Islands (48 U.S.C. (b)(ii)). For Puerto Rico see 48 U.S.C. 745, as amended by Public Law 87-121. Subsection (b) also provides for such debt limitations during subsequent period of financial assistance as may be agreed.

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ARTICLE VII

United States Financial Assistance

Section 701

Section 701. The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support will be seven years, as provided in Section 702.

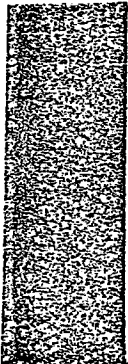
Effective Date: See Section 1003(b).

Mutual Consent Requirement. No.

Referred to in Sections 901, 1003(b).

For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Senate Committee Report:



ARTICLE VII—UNITED STATES FINANCIAL ASSISTANCE

Article VII deals with the direct financial assistance which the United States will provide for the Northern Mariana Islands.

Section 701.—This section states the general principles regarding United States financial assistance. It provides that the Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for the people of the Northern Marianas as a part of the American economic community, and to develop the economic resources needed to meet the financial responsibilities of local self-government. In order to help reach this goal, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support, outlined in section 702 will be for seven years.

House Committee Report:

Article VII—United States Financial Assistance

Section 701.—The Government of the United States will assist the Government of the Northern Marianas in its efforts to achieve a progressively higher standard of living for the people of the Northern Marianas as a part of the American economic community, and to develop the economic resources needed to meet the financial responsibilities of local self-government.

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MPSC Memorandum:

ARTICLE VII—U.S. FINANCIAL ASSISTANCE

Article VII deals with the direct financial assistance which the United States will provide for the Northern Mariana Islands.

Section 701

This Section states the general principles regarding United States financial assistance. It provides that the Government of the United States will assist the Government of the Northern Marianas in its efforts to achieve a progressively higher standard of living for the people of the Northern Marianas as a part of the American economic community, and to develop the economic resources needed to meet the financial responsibilities of local self-government. Since the people of the Northern Marianas will be a permanent part of the American economic and political family, it is appropriate to judge the standard of living at which this Section is aimed by the American standard. In order to help reach this goal, the United States will provide direct multi-year financial support to the Government of the Northern Marianas for local government operations, for capital improvement programs and for economic development. The initial program of such support will be for seven years, as is more fully stated in Section 702. It is important to note that the United States has agreed to provide direct assistance, which means that the Government of the Northern Marianas will be able to determine the precise projects on which the funds will be used. It is also important to note that the assistance will be for multi-year periods. This permits more efficient planning for the use of funds. It is also an important aspect of local self-government, since it means that the local government has assurances that funds will be forthcoming from the United States without the necessity of seeking an authorization and appropriation of such funds every year.

Administration Memorandum:

SECTION 701

This section states the general principles regarding United States financial assistance. It provides that the Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for the people of the Northern Marianas as a part of the American economic community, and to develop the economic resources needed to meet the financial responsibilities of local self-government. In order to help reach this goal, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support, outlined in section 702 will be for seven years.

Section 702

Section 702. Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:

(a) \$8.25 million for budgetary support for government operations, of which \$250,000 each year will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands;

(b) \$4 million for capital improvement projects, of which \$500,000 each year will be reserved for such projects on the Island of Tinian and \$500,000 each year will be reserved for such projects on the Island of Rota; and

(c) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No, but see Report of the Drafting Committee on Section 702.

Referred to in Sections 607, 701, 703, 704, 1003(b).
For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Report of the Drafting Committee:

Section 702. It was not considered necessary to include this Section among the provisions listed in Section 105 which may be modified only by mutual consent. The reason for this omission is that, while Section 702 constitutes a commitment on the part of the United States Government, it is of a transitional nature extending for 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 that Article.

Senate Committee Report:

Section 702.—This section deals with the initial seven-year period of financial assistance. It provides that the approval of the Covenant will constitute on the part of the United States a commitment and a pledge of its full faith and credit for the payment of the guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands provided for in this section for each of the seven fiscal years following the establishment of the new local government.

In addition, the approval of the Covenant will constitute an authorization for the appropriation of such funds. A failure to appropriate funds as provided for in section 702 would constitute a dispute which could be submitted to the courts pursuant to section 903 of the Covenant.

For each of the seven years covered by section 702 the following amounts will be provided:

\$8.25 million for budgetary support for government operations.

Of this amount each year \$250,000 will be reserved for a special education training fund connected with dislocations caused by the change in the political status of the Northern Mariana Islands.

\$4 million for capital improvement projects. Of this amount, \$500,000 each year will be reserved for such projects on Tinian and \$500,000 each year will be reserved for such projects on Rota.

\$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

House Committee Report:

Section 702.—Section 702 provides that the approval of the Covenant will constitute on the part of the United States, a commitment and pledge of its full faith and credit for the payment of the guaranteed annual levels of direct grant assistance to the Government of the Northern Marianas provided for in this section for each of the seven fiscal years following the establishment of the new local government. In addition, the approval of the Covenant will constitute an authorization for the appropriation of such funds.

For each of the seven years covered by Section 702, the following amounts will be provided:

(1) \$8.25 million for budgetary support for government operations. Of this amount each year \$250,000 will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands.

(2) \$4 million for capital improvement subjects. Of this amount, \$500,000 each year will be reserved for such projects on Tinian and \$500,000 each year will be reserved for such projects on Rota.

(3) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

MPSC Memorandum:

Section 702

Section 702 deals with the initial multi-year period of financial assistance. It provides that the approval of the Covenant will constitute on the part of the United States a commitment and a pledge of its full faith and credit for the payment of the guaranteed annual levels of direct grant assistance to the Government of the Northern Marianas provided for in this Section for each of the seven fiscal years following the establishment of the new local government. In addition, the approval of the Covenant will constitute an authorization for the appropriation of such funds. This means that there will be no necessity to obtain a new authorization every year, as is the ordinary United States practice. Each year the funds will be appropriated to fulfill the commitment and the pledge of full faith and credit made by this Section.

For each of the seven years covered by Section 702 the following amounts will be provided:

\$8.25 million for budgetary support for government operations. Of this amount each year \$250,000 will be reserved for a special education training fund-connected with the change in the political status of the Northern Mariana Islands. This fund can also be used for reorientation of the curricula of the schools in the Northern Marianas and for in-service training courses, internships and public administration fellowships for Northern Marianas civil service personnel.

\$4 million for capital improvement projects. Of this amount, \$500,000 each year will be reserved for such projects on Tinian and \$500,000 each year will be reserved for such projects on Rota. The amounts reserved for each of these two islands is the minimum amount which will be expended there. The distribution of the remaining \$3 million each year will be up to the Government of the Northern Marianas.

\$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Section 702 is a very important part of the commonwealth relationship embodied in the Covenant. The funds which the United States will provide during this seven-year period are far in excess of the amounts now being provided to the Mariana Islands District and those tentatively agreed to for the other five districts of the TTPI under the proposed Compact of Free Association. These funds will permit substantial gains in the standard of living and the quality of life in the Northern Marianas. The MPSC agreed to these amounts only after it was assured

on the basis of detailed and independent economic projections that this amount of direct assistance, supplemented by other available sources of revenues, would be sufficient to meet the needs of the Northern Marianas during this critical transitional seven-year period.

Marianas Political Status Commission studies indicate that approximately \$47.5 million (1975 constant dollars) will be required over the seven-year period (\$6.8 million annual average) for capital improvements to develop an infrastructure which will meet United States economic and social standards. \$84.0 million (1975 constant dollars) will be required over a seven-year period (\$12.0 million annual average) to meet government operations costs, and to increase the Commonwealth government wage and salary scale to the level of the wage and salary scale of the Government of Guam during the period. Commonwealth government wages and salaries can be increased substantially each year. \$21.0 million (1975 constant dollars) will be required over the seven-year period (\$3.0 million annual average) for economic development. These development funds can be used in a revolving fund and/or supplemented by development funds from commercial financial sources which will be accessible under the new status.

The total financial resources needed to meet Commonwealth government requirements over the seven-year period will be:

| | Millions of constant 1975 dollars |
|---------------------------|-----------------------------------|
| Capital improvements..... | 47.5 |
| Government operation..... | 84.0 |
| Economic development..... | 21.0 |
| Total..... | 153.5 |

The estimated financial resources which will be available to the Commonwealth government over the seven-year period under the terms of the Covenant will be:

| | Millions of constant 1975 dollars |
|---|-----------------------------------|
| Budget support payments (Section 702)..... | 98.0 |
| Federal program funds (Section 703(a))..... | 21.0 |
| Local taxes (Section 601)..... | 21.0 |
| Income from interest on investments of United States payments for military land use (Section 803(b))..... | 14.0 |
| Total..... | 154.0 |

Despite its importance, it was agreed that Section 702 need not be placed among the provisions listed in Section 105 which may be modified only by the mutual consent of the Government of the Northern Marianas and the Government of the United States. The reason that Section 702 was left off of this list is that the Section is transitional in nature, being limited to the seven years following the establishment of the new local government. In this respect, it is unlike the other provisions of the Covenant covered by mutual consent. In addition, any failure by the United States to appropriate the funds as required by this Section would constitute a dispute, under Article IX which could be submitted to the courts pursuant to the provisions of that Article. This provides additional assurances that the money which the United States is committed to make available to the Northern Marianas—to which its full faith and credit is pledged for payment—will in fact be forthcoming.

Administration Memorandum:

SECTION 702

This section deals with the initial seven-year period of financial assistance. It provides that the approval of the Covenant will constitute on the part of the United States a commitment and a pledge of its full faith and credit for the payment of the guaranteed annual levels of direct grant assistance to the Govern-

ment of the Northern Mariana Islands provided for in this section for each of the seven fiscal years following the establishment of the new local government. In addition, the approval of the Covenant will constitute an authorization for the appropriation of such funds. A failure to appropriate funds as provided for in section 702 would constitute a dispute which could be submitted to the courts pursuant to section 903 of the Covenant.

For each of the seven years covered by section 702 the following amounts will be provided:

\$8.25 million for budgetary support for government operations. Of this amount each year \$250,000 will be reserved for a special education training fund connected with dislocations caused by the change in the political status of the Northern Mariana Islands.

\$4 million for capital improvement projects. Of this amount, \$500,000 each year will be reserved for such projects on Tinian and \$500,000 each year will be reserved for such projects on Rota.

\$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Section 703

(a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b).

For the definition of the terms "Northern Mariana Islands" and "Government of the Northern Mariana Islands" see Section 1005(b) and (c).

Note: For the relationship between the terms "federal services and financial assistance programs" in Section 502(a)(1) and "full range of federal programs and services" in Section 703(a), see also the annotations to Section 502.

Senate Committee Report:

Section 703.—This section deals with federal programs and services and the payment of certain federal tax receipts to the Northern Mariana Islands.

Subsection (a) restates the provision contained in section 502(a)(1) that the United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. The value of those federal programs and services is estimated to be approximately \$3 million per year. Subsection (a) also provides that the funds which the Northern Mariana Islands receive under section 702 will be considered to be local revenues of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

Subsection (b) provides that the federal government will pay to the Government of the Northern Mariana Islands, to be expended for the benefit of the people of the Northern Mariana Islands as the local government determined, the proceeds of essentially all taxes and duties and fees collected with respect to the Northern Mariana Islands, other than those which relate to social security benefits. Puerto Rico, Guam, and the Virgin Islands enjoy similar benefits. 48 U.S.C. 740, 1121(b), 1642.

House Committee Report:

Section 703.—Subsection (a) provides that the United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States.

Subsection (a) provides that the funds that the Northern Marianas receives under Section 702 will be considered to be the local revenues of the Northern Marianas Government when used as the local share required to obtain federal programs and services.

Subsection (b) provides that the federal government will pay to the Government of the Northern Marianas, to be expended for the benefit of the people of the Northern Marianas as the local government determines, the proceeds of essentially all taxes and duties and

fees collected with respect to the Northern Marianas, other than those which relate to social security benefits.

MPSC Memorandum:

Section 703

This Section deals with federal programs and the cover-over of federal taxes to the Northern Marianas.

Subsection (a) provides that 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. Under Section 502(a)(1) laws which provide Federal services and financial assistance programs will be applicable to the Northern Marianas as they are applicable to Guam. This Section restates and expands that commitment. The availability of these Federal programs and services is another distinguishing characteristic of the close political relationship with the United States provided in the Covenant, as compared with a more distant relationship such as that described in the proposed Compact of Free Association.

It is estimated that the value of the federal programs and services to be made available under Subsection (a) will be approximately \$3 million per year. There are many such federal assistance programs. They cover, among many other areas, public health and welfare, education, public services, employment and economic development. The Northern Marianas will be eligible for such programs as those which provide funds for health maintenance organizations, for school lunch programs, for food stamps and child nutrition, for school construction in areas affected by federal activity, for grants for basic adult education and for vocation education, for community development as well as airport and airway development, for rural electrification and telephone service assistance, for disaster relief, for public works and facilities assistance, for law enforcement assistance, for solid waste disposal and road construction assistance, for aid to small business, and for economic opportunity, manpower development and other training programs.

Subsection (a) also provides that the funds that the Northern Marianas receives under Section 702 will be considered to be the local revenues of the Northern Marianas Government when used as the local share required to obtain federal programs and services. This sentence assures that the ability of the Northern Marianas to participate in federal programs and services is not limited by the amount of funds which are raised from strictly local sources.

Subsection (b) provides that the Federal Government will pay to the Government of the Northern Marianas, to be expended for the benefit of the people of the Northern Marianas as the local government determines, the proceeds of essentially all taxes and duties and fees collected with respect to the Northern Marianas, other than those which relate to social security benefits. This will provide the local government with additional financial resources. Under Section 602 taxes which are received by the local government pursuant to this Subsection can be rebated, so the impact of these federal taxes can be altered as the local government sees fit. If the base on Tinian becomes fully operational, the amount of the federal taxes which would be turned over to the local government under this Subsection could be as much as \$3 million per year.

Administration Memorandum:

SECTION 703

This section deals with federal programs and services and the payment of certain Federal tax receipts to the Northern Mariana Islands.

Subsection (a) restates the provision contained in section 502(a)(1) that the United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. The value of those federal programs and services is estimated to be approximately \$3 million per year. Subsection (a) also provides that the funds which the Northern Mariana Islands receive under section 702 will be considered to be local revenues of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

Subsection (b) provides that the federal government will pay to the Government of the Northern Mariana Islands, to be expended for the benefit of the people of the Northern Mariana Islands as the local government determined, the proceeds of essentially all taxes and duties and fees collected with respect to the Northern Mariana Islands, other than those which relate to social security benefits. Puerto Rico, Guam, and the Virgin Islands enjoy similar benefits. 48 U.S.C. 740, 1421(b), 1642.

Section 704

(a) Funds provided under Section 702 not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year will remain available for obligation or expenditure by that Government in subsequent fiscal years for the purposes for which the funds were appropriated.

(b) Approval of this Covenant by the United States will constitute an authorization for the appropriation of a pro-rata share of the funds provided under Section 702 for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

(c) The amounts stated in Section 702 will be

adjusted for each fiscal year by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index using the beginning of Fiscal Year 1975 as the base.

(d) Upon expiration of the seven year period of guaranteed annual direct grant assistance provided by Section 702, the annual level of payments in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No.
Referred to in Sections 1003(b).
For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Report of the Drafting Committee:

Subsection 704(c). The reference in this Subsection and in Subsection 803(b) to a United States Department of Commerce composite price index is intended to refer to the United States Gross National Product Implicit Price Deflator.

Senate Committee Report:

Section 704.—This section deals with a variety of important but largely technical matters relating to financial assistance.

Subsection (a) provides that funds which are received by the Government of the Northern Mariana Islands under section 702 during any fiscal year will remain available for obligation or expenditure by the local government in subsequent fiscal years for the broad purposes for which the funds were appropriated.

Subsection (b) provides that the approval of the Covenant by the United States will constitute an authorization for the appropriation of a pro rata share of the funds provided by section 702 for that period of time between the establishment of the new Government of the Northern Mariana Islands (section 1003(b)) and the beginning of

the next succeeding fiscal year. This assures that funds will be available immediately upon the establishment of the local government, even if that date does not coincide with the beginning of a fiscal year.

Subsection (c) provides that the amounts stated in section 702 will be adjusted for inflation each year. The method by which they will be adjusted will be based on the percentage change in the United States Gross National Product Implicit Price Deflator (Department of Commerce composite price index) since the beginning of fiscal year 1975.

Subsection (d) provides that after the expiration of the seven-year period of annual direct grant assistance provided by section 702, the annual level of payment in each category listed in section 702 will continue until Congress appropriates a different amount or otherwise provides by law. Section 902 envisages consultations regarding future multi-year financial assistance. Subsection (d) requires that Congress must take positive action if it wishes either to alter the amount of assistance set by section 702 (as adjusted by section 704(c)) or to eliminate assistance altogether, even after the seven-year period ends. It eliminates the risk that direct financial assistance to the Northern Mariana Islands would be halted inadvertently.

House Committee Report:

Section 704.—Section 704 deals with a variety of important but largely technical matters relating to financial assistance.

Subsection (a) provides that funds which are received by the Government of the Northern Marianas under Section 702 during any fiscal year will remain available for obligation or expenditure by the local government in subsequent fiscal years for the broad purposes for which the funds were appropriated.

Subsection (b) provides that approval of the Covenant by the United States will constitute an authorization for the appropriation of a prorata share of the funds provided by Section 702 for that period of time between the establishment of the new Government of the Northern Marianas and the beginning of the next succeeding fiscal year.

Subsection (c) provides that the amounts stated in Section 702 will be adjusted for each year for changes in the value of the dollar based on the percentage change in the U.S. Gross National Product Implicit Price Deflator since the beginning of fiscal year 1975. By this language, it is intended that July 1, 1974, will be the beginning date on which the adjustment is based.

Subsection (d) provides that after the expiration of the seven-year period of annual direct grant assistance provided by Section 702, the annual level of payment in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

MPSC Memorandum:

Section 104

Section 704 deals with a variety of important but largely technical matters relating to financial assistance.

Subsection (a) provides that funds which are received by the Government of the Northern Marianas under Section 702 during any fiscal year will remain available for obligation or expenditure by the local government in subsequent fiscal years for the broad purposes for which the funds were appropriated. This assures that if in any one year funds cannot entirely be used they would not be lost. The purposes for which the funds are appropriated refers to the category of funds under Subsections (a), (b) or (c) of Section 702.

Subsection (b) provides that approval of the Covenant by the United States will constitute an authorization for the appropriation of a pro rata share of the funds provided by Section 702 for that period of time between the establishment of the new Government of the Northern Marianas and the beginning of the next succeeding fiscal year. This assures that funds will be available immediately upon the establishment of the local government even if that does not coincide with the beginning of a fiscal year. It also assures that there will be at least seven full fiscal years of assistance under Section 702.

Subsection (c) provides that the amounts stated in Section 702 will be adjusted for inflation each year. The method by which they will be adjusted will be based on the percentage change in the U.S. Department of Commerce composite price index since the beginning of fiscal year 1975. This assures that the amount which will be received by the Government of the Northern Marianas is equivalent to \$14 million in purchasing power as of July 1, 1974.

Subsection (d) provides that after the expiration of the seven-year period of annual direct grant assistance provided by Section 702 the annual level of payment in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law. This Section assures the Congress must take specific action to alter the amount determined by Section 702 (as adjusted by Section 704(c)) even after the seven-year period has been concluded. It eliminates the risk that direct financial assistance to the Northern Marianas would be halted inadvertently, or because of an inability of the two sides to agree on future levels of funding.

Administration Memorandum:

SECTION 704

This section deals with a variety of important but largely technical matters relating to financial assistance.

Subsection (a) provides that funds which are received by the Government of the Northern Mariana Islands under section 702 during any fiscal year will remain available for obligation or expenditure by the local government in subsequent fiscal years for the broad purposes for which the funds were appropriated.

Subsection (b) provides that the approval of the Covenant by the United States will constitute an authorization for the appropriation of a pro rata share of the funds provided by section 702 for that period of time between the establishment of the new Government of the Northern Mariana Islands (section 1003(b)) and the beginning of the next succeeding fiscal year. This assures that funds will be available immediately upon the establishment of the local government even if that date does not coincide with the beginning of a fiscal year.

Subsection (c) provides that the amounts stated in section 702 will be adjusted for inflation each year. The method by which they will be adjusted will be based on the percentage change in the United States Gross National Produce Implicit Price Deflator (Department of Commerce composite price index) since the beginning of fiscal year 1975.

Subsection (d) provides that after the expiration of the seven-year period of annual direct grant assistance provided by section 702, the annual level of payment in each category listed in section 702 will continue until Congress appropriates a different amount or otherwise provides by law. Section 902 envisages consultations regarding future multi-year financial assistance. Subsection (d) requires that Congress must take positive action if it wishes either to alter the amount of assistance set by section 702 (as adjusted by section 704(c)) or to eliminate assistance altogether, even after the seven-year period ends. It eliminates

the risk that direct financial assistance to the Northern Mariana Islands would be halted inadvertently.

ARTICLE VIII

Property

Section 801

~~Section 801.~~ All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all real property in the Northern Mariana Islands on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be transferred to the Government of the Northern Mariana Islands. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all personal property on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be distributed equitably in a manner to be determined by the Government of the Trust Territory of the Pacific Islands in consultation with those concerned, including the Government of the Northern Mariana Islands.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: No.

Referred to in Section 1003(a).

"Northern Mariana Islands" and

For the definition of the terms "Government of the Northern Mariana Islands" see Section 1005(c).

Senate Committee Report: (b) and

ARTICLE VIII—PROPERTY

Article VIII deals with a variety of issues related to property in the Northern Marianas, including U.S. defense needs, return of public land including military retention land and restraints on land alienation.

Section 801.—This section provides for a transfer of property in the Northern Mariana Islands to the Government of the Northern Mariana Islands no later than the time of the termination of the Trusteeship.

This section also provides for a transfer of personal property no later than the termination of the Trusteeship. Such property will be distributed equitably after consultation with those concerned, including the Government of the Northern Mariana Islands.

House Committee Report:

Article VIII—Property

Section 801.—Section 801 provides that all right, title and interest of the Government of the Trust Territory of the Pacific Islands to real property in the Northern Marianas will be transferred to the Government of the Northern Marianas. The transfer will take place no later than the time of the termination of the Trusteeship.

This section also provides that all right, title and interest of the Government of the Trust Territory in personal property on the date the Covenant was signed or thereafter acquired by it, will, no later than the termination of the Trusteeship, be distributed equitably in a manner to be determined by the Trust Territory Government after consultation with those concerned, including the Government of the Northern Marianas.

MPSC Memorandum:

ARTICLE VIII—PROPERTY

Article VIII deals with a variety of issues related to property in the Northern Marianas, including U.S. defense needs, return of public land including military retention land and restraints on land alienation.

Section 801

Section 801 provides that all of the real property (including buildings and permanent fixtures) to which the Government of the Trust Territory of the Pacific Islands holds any right, title or interest will be transferred to the Government of the Northern Marianas. The transfer will take place no later than the time of the termination of the Trusteeship. The Section applies to all land to which the Trust Territory Government has rights on the date that the Covenant is signed, or which it thereafter acquires in any manner whatsoever. This Section serves as a guarantee that all of the public land in the Northern Marianas will be returned to its rightful owners, the people of the Northern Marianas. It is expected that a very substantial amount of land will be returned far sooner than the termination of the Trusteeship. Under the United States Land Policy Statement and its implementing Secretarial Order, it is expected that much public land will be transferred as soon as a land entity is established by the Mariana Islands District Legislature to hold land in trust for the people of the Northern Marianas. This Section assures that all of the land will come back no later than termination, and that no land can be disposed of other than to the Government of the Northern Marianas.

This Section also provides that all right, title and interest of the Government of the Trust Territory in personal property on the date of the signing of the Covenant or thereafter acquired by it in any manner whatsoever, will, no later than the termination of the Trusteeship, be distributed equitably in a manner to be determined by the Trust Territory Government after consultation with those concerned, including the Government of the Northern Marianas. Personal property means property other than real property, and includes such items as desks and automobiles. These assets, unlike real property in the Northern Marianas, are properly considered assets of the entire Trust Territory and should be divided equitably. This Section assures that the Northern Marianas Government will have its views considered before that distribution is accomplished.

SECTION 801

This section provides for a transfer of property in the Northern Mariana Islands to the Government of the Northern Mariana Islands no later than the time of the termination of the Trusteeship.

This section also provides for a transfer of personal property no later than the termination of the Trusteeship. Such property will be distributed equitably after consultation with those concerned, including the Government of the Northern Mariana Islands and representatives of other districts.

Section 802

(a) *The following property will be made available to the Government of the United States by lease to enable it to carry out its defense responsibilities:*

(1) *on Tinian Island, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto;*

(2) on Saipan Island, approximately 177 acres (72 hectares) at Tanapag Harbor; and

(3) on Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island, and the waters immediately adjacent thereto.

(b) The United States affirms that it has no present need for or present intention to acquire any greater interest in property listed above than that which is granted to it under Subsection 803(a), or to acquire any property in addition to that listed in Subsection (a), above, in order to carry out its defense responsibilities.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No.
Referred to in Sections 803, 1003(b).

Note: The Technical Agreement referred to in Section 803(c) (infra Appendix) provides in Part I2., par. 3:

A "Should payment [under the lease] not be made within five years from the date that Sections 802 and 803 of the Covenant come into force, then this Agreement will automatically terminate and both parties will be released from all liability or obligations created by this Agreement and Sections 802 and 803 of the Covenant."

Senate Committee Report:

Section 802.—This section provides that the Government of the Northern Mariana Islands will lease the following property to the United States to enable it to carry out its defense responsibilities:

On Tinian, approximately 17,799 acres and the waters immediately adjacent thereto.

On Saipan, approximately 177 acres at Tanapag Harbor.

Farallon de Medinilla Island, approximately 206 acres encompassing the entire island and the waters immediately adjacent thereto.

The United States also affirms that it has not present need for or present intention to acquire any greater interest in the property being leased to it on Tinian, at Tanapag and on Farallon de Medinilla than a lease interest. This reaffirms the United States has no plans to convert its leasehold interest into ownership. There is also an affirmation by the United States that it has no present need for or present intention to acquire any additional property, other than that being leased to it by the terms of the Covenant, in order to carry out its defense responsibilities.

The technical agreement setting forth the purposes for which the land will be used is included as appendix VI.

House Committee Report:

Section 802.—This section provides that the following property will be made available to the United States, to enable it to carry out its defense responsibilities, by lease by the local Northern Mariana Islands Government:

(1) On Tinian, approximately 17,799 acres and the waters immediately adjacent thereto.

(2) On Saipan, approximately 177 acres at Tanapag Harbor.

(3) Farallon de Medinilla Island, approximately 206 acres encompassing the entire island and the waters immediately adjacent thereto.

Subsection (b) is an affirmation by the United States that it has no present need for or present intention to acquire any greater interest in the property being leased to it on Tinian, at Tanapag and on Farallon

de Medinilla than the lease interest which is granted to it under Section 803(a).

MPSC Memorandum:

Section 808

This Section provides that the following property will be made available to the United States by lease—not by purchase—by the local Government or by the land entity which is established to hold land in trust for the people of the Northern Marianas, to enable the Government of the United States to carry out its defense responsibilities:

On Tinian, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto.

On Saipan, approximately 177 acres (72 hectares) and Tanapag Harbor. Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island and the waters immediately adjacent thereto.

The amount of land to be made available to the United States reflects extensive negotiations and review by both the United States and the MPSC for two years to assure that the United States requested and received only the minimum amount of land which it needed for defense purposes. The MPSC believes that this goal has been reached. The amount of land to be made available under the Covenant is far less than the amount initially requested by the United States. And the land will be leased, not sold. This accommodation of the interests on both sides reflects good will and understanding. It also bespeaks a recognition by all concerned that the Northern Marianas will, like other members of the American political family, contribute some of its resources to the common good, as well as receive assistance which it needs.

The United States has an important defense requirement for the land which will be leased to it on Tinian. Over the long term in addition to joint service land, sea and air training and maneuvers, the land may be used for ammunition storage and forward logistics, with an operational joint service airfield and a developed harbor to support these activities. In the near term, however, the major plan used for the land on Tinian is for ground, sea and air training exercises. To support these near term operations and to facilitate the rapid buildup in an emergency and the implementation of the full plans for Tinian, the harbor at San Jose will be rehabilitated (including the possibility of rebuilding the breakwater, trenching the channel and rebuilding the dock area) and West Field will be upgraded. The

fact that a limited base is all that will be built in the near term means that a substantial portion of the land to be leased to the United States on Tinian will be leased back for the use of the people of the Northern Marianas. This matter is discussed under Section 803(d) below.

The land at Tanapag Harbor is not immediately needed for military purposes, and there are no current plans for military use of the area. Subject to the limitations imposed by and future military use, the United States has agreed to permit maximum feasible joint use of any land and facilities which it does develop for military purposes. Though it will be leased to the United States, the bulk of the land at Tanapag Harbor will remain under local control. Approximately 133 acres (54 hectares) will be made available to the local government at no cost for a memorial park; and approximately 44 acres (18 hectares) will be leased back for Harbor-related uses on ten-year renewable terms. This matter is discussed under Section 803(e) below.

The uninhabited island of Farallon de Medinilla will be used by the United States as a target area. The United States has agreed that it will enforce maximum safety precautions with respect to its use of this area.

It is clear that the lease of land to the United States by or on behalf of the Government of the Northern Marianas is not and is not intended to be of its own force a cession of legislative jurisdiction from the Northern Marianas to the United States with respect to such land. This means that the Northern Marianas will retain civilian jurisdiction over transactions on the land leased to the United States, and, for example, will be able to prosecute crimes which are committed on such land.

Subsection (b) of Section 802 contains an affirmation by the United States that it has no present need for or present intention to acquire any greater interest in the property being leased to it on Tinian, at Tanapag and on Farallon de Medinilla than the lease interest which is granted to it under Section 803. This statement provides reassurances to those who might otherwise be concerned that the United States has no plans to turn its leasehold interest into title. Subsection (b) also contains an affirmation by the United States that it has no present need for or present intention to acquire any additional property, other than that being leased to it in accordance with the Covenant, in order to carry out its defense responsibilities.

Administration Memorandum:

SECTION 802

This section provides that the Government of the Northern Mariana Islands will lease the following property to the United States to enable it to carry out its defense responsibilities:

On Tinian, approximately 17,709 acres and the waters immediately adjacent thereto.

On Saipan, approximately 177 acres at Tanapag Harbor.

Farallon de Medinilla Island, approximately 206 acres encompassing the entire island and the waters immediately adjacent thereto.

The United States affirms that it has no present need for or present intention to acquire any greater interest in the property being leased to it on Tinian, at Tanapag and on Farallon de Medinilla than a lease interest. This reaffirms the United States has no plans to convert its leasehold interest into ownership. There is also an affirmation by the United States that it has no present need for or present intention to acquire any additional property, other than that being leased to it by the terms of the Covenant, in order to carry out its defense responsibilities.

Section 803

(a) The Government of the Northern Mariana Islands will lease the property described in Subsection 802(a) to the Government of the United States for a term of fifty years, and the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term.

(b) The Government of the United States will pay to the Government of the Northern Mariana Islands in full settlement of this lease, including the second fifty year term of the lease if extended under the renewal option, the total sum of \$19,520,600, determined as follows:

(1) for that property on Tinian Island, \$17.5 million;

(2) for that property at Tanapag Harbor on Saipan Island, \$2 million; and

(3) for that property known as Farallon de Medinilla, \$20,600.

The sum stated in this Subsection will be adjusted by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index from the date of signing the Covenant.

(c) A separate Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands will be executed simultaneously with this Covenant. The terms of the lease to the United States will be in accordance with this Section and with the terms of the Technical Agreement. The Technical Agreement will also contain terms relating to the leaseback of property, to the joint use arrangements for San Jose Harbor and West Field on Tinian Island, and to the principles which will govern the social structure relations between the United States military and the Northern Mariana Islands civil authorities.

(d) From the property to be leased to it in accordance with this Covenant the Government of the United States will lease back to the Government of the Northern Mariana Islands, in accordance with the Technical Agreement, for the sum of one dollar per acre per year, approximately 6,458 acres (2,614 hectares) on Tinian Island and approximately 44 acres (18 hectares) at Tanapag Harbor on Saipan Island, which will be used for purposes compatible with their intended military use.

(e) From the property to be leased to it at Tanapag Harbor on Saipan Island the Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres (54 hectares) at no cost. This property will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas Campaign. The \$2 million received from the Government of the United States for the lease of this property will be placed into a trust fund, and used for the development and maintenance of the park in accordance with the Technical Agreement.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No.
Referred to in Sections 802, 1003(b).
For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Note: The Technical Agreement referred to in subsection (c) of this section (infra Appendix) provides in Part I2, par. 3:

"Should payment [under the lease] not be made within five years from the date that Sections 802 and 803 of the Covenant come into force, then this Agreement will automatically terminate and both parties will be released from all liability or obligations created by this Agreement and Sections 802 and 803 of the Covenant."

Report of the Drafting Committee:

Section 803. It is understood that the Government of the Northern Mariana Islands may exercise its obligations and rights under this Article through a legal entity established to receive and hold public lands in trust for the people of the Northern Mariana Islands.

Senate Committee Report:

Section 803.—This section concerns the details of the lease arrangement.
It provides that the Government of the Northern Mariana Islands will lease the property for a term of fifty years, and that the Government of the United States will have the option of renewing this lease for all or part of the property for an additional term of fifty years, at no additional cost.
The obligations and the rights of the Government of the Northern Mariana Islands in Article VIII may be exercised by the legal entity established to hold land in trust for the people of the Northern Marianas.
The United States will pay to the Government of the Northern Mariana Islands including the renewal option, a total sum of \$19,520,600. This total sum was determined by assigning to each parcel the following valuation: for that property on Tinian, \$17.5 million; for that property at Tanapag Harbor on Saipan Island, \$2 million; and for that property known as Garallon de Medinilla, \$20,600. The total sum will be adjusted by a percentage which is the same as the percentage change in the United States Gross National Product Implicit Price Deflator from the date the Covenant was signed until the sum is paid.
A separate Technical Agreement Regarding Use of Land to be Leased to the United States in the Northern Mariana Islands was executed simultaneously with the Covenant. The terms of the lease to the United States will also be in accordance with that agreement. The Technical Agreement has been submitted to the Congress for its information and is included as appendix to this Report. The acquisition of the use of these lands is subject to Congressional approval. Both the United States and the Northern Mariana Islands will be released from the obligations to acquire or provide lands under this section if the United States does not make payment within five years after the Northern Mariana Islands Government is established.

The comments of the Senate Committee on Sections 803-806 have been printed out of order. They have been placed in the proper sequence here.

From the property to be leased to it, the United States will lease back, in accordance with the Technical Agreement, for the sum of \$1 per acre per year approximately 6,458 acres on Tinian and approximately 44 acres at Tanapag Harbor.

The Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres at no cost at Tanapag Harbor. This property will be set aside as a public park to serve as a memorial to the American and Marianas dead in World War II. Two million dollars of the total funds paid by the United States for the lease will be placed in a trust fund by the Government of the Northern Mariana Islands or by the legal entity, and the income from the fund will be used to develop and maintain the park.

Approval of the Covenant by the United States Congress will constitute an authorization for appropriation for the land payments.

House Committee Report:

Section 803.—Subsection (a) provides that the Government of the Northern Marianas will lease the property described in Section 802(a) to the Government of the United States for a term of fifty years, and that the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years, at no additional cost, if it so desires at the end of the first term.

Subsection (b) provides that the United States will pay to the Government of the Northern Marianas in full settlement of the lease, including the second fifty-year period of the lease if extended under the renewal option, the total sum of \$19,520,600. The total sum which will be paid by the United States for the leasehold will be adjusted by a percentage which is the same as the percentage change in the U.S. Gross National Product Implicit Price Deflator from the date the Covenant was signed until the sum is paid.

Subsection (c) states that a separate Technical Agreement Regarding Use of Land to be Leased to the United States in the Northern Mariana Islands will be executed simultaneously with the Covenant, and that the terms of the lease to the United States will be in accordance with the Technical Agreement as well as with the Covenant.

Subsection (d) provides that from the property to be leased to it under the Covenant, the United States will lease back, in accordance with the Technical Agreement, for the sum of \$1 per acre per year, approximately 6,458 acres on Tinian and approximately 44 acres at Tanapag Harbor. This land may be used only for purposes compatible with the intended military use.

Subsection (e) provides that the Government of the United States will make available to the Government of the Northern Marianas, 133 acres at no cost at Tanapag Harbor. This property will be set aside as a public park to serve as a memorial to the American and Marianas dead in World War II. Two million dollars of the total funds paid by the United States for the lease will be placed in a trust fund by the Government of the Northern Marianas or by the legal entity, and the income from the fund will be used to develop and maintain the park.

MPSC Memorandum:

Section 803

This Section concerns the details of the land arrangement under which the United States will lease the land described in Section 802.

Subsection (a) provides that the Government of the Northern Marianas will lease the property described in Section 802(a) to the Government of the United States for a term of fifty years, and that the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term. The structure of the lease will require the United States to reassess its needs at the end of fifty years to determine whether it still requires all of the land being leased to it in accordance with the Covenant. Of course, the United States undertakes regular periodic reviews of its needs; but the exercise of the option will require an affirmative act by the United States and this should result in a particularly detailed review. It is intended and understood that the obligations and the rights of the Government of the Northern Marianas under Section 803 and elsewhere in Article VIII may be exercised by or through the legal entity established to hold land in trust for the people of the Northern Marianas. It is further understood that it is the responsibility of the Government of the Northern Marianas or the legal entity to remove all legal encumbrances on the lands which are being leased to the United States, with the exception of one private lease covering a portion of the area to be leased to the United States on Tinian. This private lease, which results in substantial employment opportunities and economic development on the island, will be permitted to continue in accordance with its terms. Either the United States or the Government of the Northern Marianas will be able to cause this private lease to be terminated, and whichever one causes the termination will be responsible for any damages which result therefrom. All other existing claims with respect to the land to be leased to the United States will be settled by the Government of the Northern Marianas or by the legal entity, but the United States will pay all relocation benefits which are due under the Uniform Relocation and Real Property Acquisition Policies Act of 1970.

Subsection (b) provides that the United States will pay to the Government of the Northern Marianas in full settlement of the lease, including the second fifty-year period of the lease if extended under the renewal option, the total sum of \$19,520,600. This total sum was determined by assigning to each parcel the following valuation: for that property on Tinian, \$17.5 million; for that property at Tansapag Harbor on Saipan Island, \$2 million; and for that property known as Farallon de Medinilla, \$20,600. The total sum which will be paid by the United States for the leasehold will be adjusted by a percentage which is the same as the percentage change in the U.S. Department of Commerce composite price index from the date of the signing of the Covenant until the sum is paid. This assures that the Government of the Northern Marianas will receive an amount which is equivalent in purchasing power to the amount agreed to as the value of the land at the time that the Covenant is signed. The United States will not be able to enjoy full and unrestricted use of the land in accordance with the agreements reached until it makes the necessary payment. Should the payment not be made within five years after the establishment of the new Government of the Northern Marianas, under the Technical Agreement described below, the obligations of both sides with respect to the land transaction will terminate.

To establish the lease value of land required by the U.S., the MPSC hired consultants who are experts in land valuation. These consultants estimated that the lease requested by the U.S. would have a total value of \$28,480,400 if paid in a single lump sum, less the value of land use benefits retained by the Marianas. It is estimated that the value of land use benefits retained by the Marianas, including leasebacks and land improvements which will be made by the U.S., will amount to \$8,773,564. The U.S. cash payment of \$19,520,600, plus the \$8,773,564 in use benefits retained by the Marianas, will amount to \$28,294,164, and will approximately equal the full lease value estimated by the MPSC consultants.

VALUE OF U.S. PAYMENTS AND ESTIMATED BENEFITS RESULTING FROM LAND LEASES TO THE U.S. MILITARY

| | Consultant's lump sum lease value estimates | Negotiated lump sum lease payments | Estimated value of leasebacks and other benefits | Total value of U.S. payments and estimated benefits |
|--------------------------|---|------------------------------------|--|---|
| Farallon de Medinilla | \$22,400 | \$20,600 | | \$20,600 |
| Tansapag Harbor (Saipan) | 4,500,000 | 2,000,000 | \$4,290,865 | 6,290,865 |
| Tinian: | | | | |
| San Jose Harbor | 3,800,000 | | 1,500,000 | |
| Other | 19,760,000 | | 2,982,699 | |
| Total | 23,560,000 | 17,500,000 | 4,482,699 | 21,982,699 |
| Grand total | 28,480,400 | 19,520,600 | 8,773,564 | 28,294,164 |

Subsection (c) states that a separate Technical Agreement Regarding Use of Land to be Leased to the United States in the Northern Mariana Islands will be executed simultaneously with the Covenant. The Technical Agreement is an important element of the commonwealth relationship embodied in the Covenant. Subsection (c) further provides that the terms of the lease to the United States will be in accordance with the Technical Agreement as well as with the Covenant. The Technical Agreement will be deemed to have been approved when the Mariana Islands District Legislature approves the Covenant. This will make it a binding commitment, contingent upon approval of the Covenant by the people of the Northern Marianas and by the Congress of the United States. The Technical Agreement will become effective when the new Government of the Northern Mariana Islands comes into existence.

In addition to the terms already noted in the discussion of Section 802 and Sections 803(a) and (b), the Technical Agreement provides that if the property leased to the United States on Tinian should not be required for the needs of or for the discharge of the responsibilities of the United States Government, or should otherwise become surplus property under United States law, the Government of the Northern Marianas or the legal entity will in accordance with United States law be given the first opportunity to acquire whatever interest of the Government of the United States remains in such property. This "right of first refusal" assures that the people of the Northern Marianas, acting through their Government or through the legal entity which holds land in trust for them, can regain the land when it is no longer needed by the United States.

The Technical Agreement also contains terms relating to leasebacks of property. This matter is discussed in more detail under Subsection (d) below. The Technical Agreement further contains terms which relate to the joint use arrangements for San Jose Harbor and West Field on Tinian, and to the principles which will govern the social structure relations between the United States military and Northern Mariana Islands civil authorities.

With respect to joint use of San Jose Harbor, the Technical Agreement provides that the Harbor will initially be under the control of the Government of the Northern Marianas, and that if the United States does build an operational joint service base on Tinian, appropriate joint control arrangements will be agreed upon for the construction and subsequent periods to accommodate the needs of the civilian community as well as the military. The Technical Agreement obligates the Government of the Northern Marianas to place appropriate restrictions on two plots totaling nine acres (3.6 hectares) immediately adjacent to the wharf which will be used by civilians at San Jose Harbor, so that this acreage can be used for harbor-related purposes only.

With respect to joint use of West Field, the Technical Agreement provides that the Government of the Northern Marianas and the civilian community of Tinian will have continuous joint use of the field with the exception of safety of flight and non-interference with military operations. The Government of the Northern Marianas will also have operational responsibility for West Field until the United States assumes permanent operational responsibility, and except during those periods when the military is actually using the field. The Technical Agreement also contains assurances concerning fuel supplies and use of United States aircraft and structural fire protection services and air crash rescue services which may eventually become available at West Field. The Technical Agreement further assures that the civilian community can continue to use the present facilities at West Field during construction and in the future, and that the United States will, during its planning of future base facilities, take into consideration the needs of the future civilian terminal area for water, power and other utilities. Finally, the Technical Agreement provides that the local government may establish and collect landing fees from all non-United States Government aircraft at West Field until the military forces permanently take over operation. At that time commercial aircraft will be charged the minimum allowable landing fees according to the standard policy of the United States. Access to the present and future civilian air terminal is guaranteed to be unrestricted. Security around the terminal and customs inspections relating to civilians will be the responsibility of the Government of the Northern Marianas.

With respect to social structure relations between the United States military and Northern Mariana Islands' civil authorities, the Technical Agreement contains provisions which, unless modified in writing by mutual agreement, will govern such relations. The Technical Agreement reflects the understanding that it is the responsibility of the local government to plan and develop facilities and services for the Tinian civilian community. It also reflects the fact that a Joint Civilian-Military Committee will be established to assure coordination and good relations between the civilian and military communities. Shoreline areas in and around the military area on Tinian will remain open to fishermen at all possible times except for limited areas which must be closed to comply with safety, security and hazardous risk requirements. Marianas citizens will have the same access to beach areas in the military areas of Tinian for recreational purposes as military personnel and their dependents have for recreational purposes. Utilities planning for Tinian will be undertaken on an island-wide basis and planning accomplished by the United States will be closely coordinated with planning of the government of the Northern Marianas. Excess capacity of utilities constructed for military purposes will be made available to the civilian community on an appropriate fee basis if desired, though there is no obligation on the part of the United States to create such excess capacity. However, when utilities are constructed for military purposes, the civilian community, by paying for the incremental costs of the additional capacity to meet civilian needs, can require that enough capacity is constructed for both communities.

A number of other social structure items are also dealt with in the Technical Agreement: potable water will be made available to the United States military base by the local government at a mutually agreed cost. When available, emergency medical facilities on Tinian can be used by the local residents and care on a non-emergency basis will be provided where civilian capacity is nonexistent if there is adequate military capacity. At such time as military dependents are stationed on the base in large numbers there will be consultations regarding federal

assistance programs necessary for a high-quality, integrated local school system adequate for all stages of Tinian's development. To the maximum extent practical economic opportunities resulting from the use of land in the Northern Marianas by the United States military and training will be made available to the people of the Northern Marianas. Finally, the U.S. Government is committed to consider sympathetically all requests from the civilian community for assistance from resources available on the base. Among other matters, this was designed to anticipate possible civilian needs for sand, coral and gravel for construction materials available on the land to be leased to the United States.

Subsection (d) of Section 803 of the Covenant deals with leasebacks. It provides that from the property to be leased to it under the Covenant, the United States will lease back, in accordance with the Technical Agreement, for the sum of \$1 per acre per year approximately 6,458 acres (2,614 hectares) on Tinian and approximately 44 acres (18 hectares) at Tanapag Harbor. This land will be used for purposes compatible with the intended military use. The general requirements of the leasebacks on Tinian will be that the land must be used for a purpose compatible with planned military activities; that there can be no permanent construction without prior consent; that FAA safety zone areas will apply; that uses that damage or have a detrimental affect on subsequent use on land will not be permitted; that all these leases will be subject to cancellation upon one year's notice or sooner in the event of urgent military requirement or national emergency; and that provisions for fair compensation in the event of cancellation or earlier termination will be included. The total of the leasebacks on Tinian is broken down as follows:

Approximately 1,335 acres (540 hectares) south of the present West Field will be leased back to the Government of the Northern Marianas or the legal entity. This leaseback will be for a term of ten years with renewal rights for an additional ten years with the approval of the United States Government, except for the harbor area which will be on a five-year basis renewable with approval. The leasebacks will be for \$1.00 per year. Permissible uses here will be grazing, agriculture which does not interfere with flight safety, and other uses approved by the United States.

Approximately 4,010 acres (1,623 hectares) lying north of West Field and east of Broadway. This land will continue to be used in accordance with the terms and conditions of the current private lease in effect.

Approximately 610 acres (247 hectares) now being used under grazing leases in the area north of West Field. These leases will be for five years at a \$1.00 per acre per year renewable with United States approval for an additional period of up to five years. These lands will be leased back to the persons presently using them and can be used for grazing or other approved purpose.

Approximately 503 acres (204 hectares) north of West Field, now covered by homesteads or pending homesteads. After the Government of the Northern Marianas or the legal entity acquires the land and leases it to the United States, the United States will on request lease it back to those former owners who wish to continue to farm the land. These leasebacks will be for five years at \$1.00 per acre per year renewable for up to a five-year period with United States approval. In addition, the Government of the Northern Marianas or the legal entity will provide an opportunity for the owners of these homesteads who may be eligible for new homesteads as a result of their displacement to exchange their land for comparable land outside the military area. If the owners do not choose to this exchange, they will be fully compensated by the local government.

The Technical Agreement also assures that the presently existing civilian air terminal at West Field may remain at its present location and that land will be made available at a nominal cost adjacent to the present runway or any future runway for expansion or for additional facilities which may be needed. If a future relocation is necessary, the United States will reimburse the Government of the Northern Marianas for the value of the then-existing terminal and make alternative land available at a nominal cost, as well as pay the costs of relocation.

The Technical Agreement also deals with the lease back of 44 acres (18 hectares) at Tanapag Harbor. This land will be leased back to the Northern Marianas Government or to the legal entity for ten years, automatically renewable for \$1.00 per acre per year. Only harbor-related activities will be permitted in this area.

Finally, the Technical Agreement provides for additional leasebacks from the Government of the U.S. to the Government of the Northern Marianas or the legal entity in accordance with applicable laws and regulations.

Subsection (e) of Section 803 of the Covenant provides that the Government of the United States will make available to the Government of the Northern Marianas 133 acres (54 hectares) at no cost at Tanapag Harbor. This property will be set aside as a public park to serve as a memorial to the American and Marianas dead in World War II. Two million dollars of the total funds paid by the United States for the lease will be placed in a perpetual trust fund by the Government of the Northern Marianas or by the legal entity, and the income from the fund will be used to develop and maintain the park. Income from the fund can be used for other purposes with the concurrence of the United States. The United States will assist in the development of the park by providing planning and technical advice. Space will be provided to the United States to construct at its own expense a memorial to the American servicemen who died in the Marianas campaign. The Government of Northern Marianas may erect a memorial to the Marianas war dead.

Administration Memorandum:

SECTION 803

This section concerns the details of the lease arrangement. It provides that the Government of the Northern Mariana Islands will lease the property for a term of fifty years, and that the Government of the United States will have the option of renewing this lease for all or part of the property for an additional term of fifty years, at no additional cost.

The obligations and the rights of the Government of the Northern Mariana Islands in Article VIII may be exercised by the legal entity established to hold land in trust for the people of the Northern Marianas.

The United States will pay to the Government of the Northern Mariana Islands in full settlement of the lease, including the renewal option, a total sum of \$19,520,600. This total sum was determined by assigning to each parcel the following valuation: for that property on Tinian, \$17.5 million; for that property at Tanapag Harbor on Saipan Island, \$2 million; and for that property known as Farallon de Medinilla, \$20,600. The total sum will be adjusted by a percentage which is the same as the percentage change in the United States Gross National Product Implicit Price Deflator from the date the Covenant was signed until the sum is paid.

A separate Technical Agreement Regarding Use of Land to be Leased to the United States in the Northern Mariana Islands was executed simultaneously with the Covenant. The terms of the lease to the United States will also be in accordance with that agreement. The Technical Agreement has been submitted to the Congress for its information. The acquisition of the use of these lands is subject to Congressional approval. Both the United States and the Northern Mariana Islands will be released from the obligations to acquire or provide lands under this section if the United States does not make payment within five years after the Northern Mariana Islands Government is established.

From the property to be leased to it, the United States will lease back, in accordance with the Technical Agreement, for the sum of \$1 per acre per year approximately 6,458 acres on Tinian and approximately 44 acres at Tanapag Harbor.

The Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres at no cost at Tanapag Harbor. This property will be set aside as a public park to serve as a memorial to the American and Marianas dead in World War II. Two million dollars of the total funds paid by the United States for the lease will be placed in a trust fund by the Government of the Northern Mariana Islands or by the legal entity, and the income from the

Approval of the Covenant by the United States Congress will constitute an authorization for appropriation for the land payments.

Section 804

(a) The Government of the United States will cause all agreements between it and the Government of the Trust Territory of the Pacific Islands which grant to the Government of the United States use or other rights in real property in the Northern Mariana Islands to be terminated upon or before the effective date of this Section. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to any real property with respect to which the Government of the United States enjoys such use or other rights will be transferred to the Government of the Northern Mariana Islands at the time of such termination. From the time such right, title and interest is so transferred the Government of the Northern Mariana Islands will assure the Government of the United States the continued use of the real property then actively used by the Government of the United States for civilian governmental purposes on terms comparable to those enjoyed by the Government of the United States under its arrangements with the Government of the Trust Territory of the Pacific Islands on the date of the signature of this Covenant.

(b) All facilities at Isely Field developed with federal aid and all facilities at that field usable for the landing and take-off of aircraft will be available

to the United States for use by military and naval aircraft, in common with other aircraft, at all times without charge, except, if the use by military and naval aircraft shall be substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities so used may be charged at a rate established by agreement between the Government of the Northern Mariana Islands and the Government of the United States.

Effective Date: See Section 1003(b).
Mutual Consent Requirement: No. "Northern Mariana Islands" and
Referred to in Section 1003(b).
For the definition of the term "Government of the Northern Mariana Islands see Section 1005(c).
Senate Committee Report: (No) and

Section 804.—This section provides for the cancellation of military retention land and other land use agreements from which the Government of the United States benefits in the Northern Mariana Islands, and the future use of land by the Federal Government for civilian purposes.

Subsection (a) provides that the Government of the United States will cause all agreement between it and the Trust Territory Government which grant to the United States any rights in real property in the Northern Mariana Islands to be terminated upon or before the

establishment of the new Government of the Northern Mariana Islands.

Since title to such land is also held by the Trust Territory Government, this subsection also provides that all of the Trust Territory Government's land interests will be transferred to the Northern Mariana Islands Government or the legal entity no later than the time the new Marianas Government comes into being. The local government is obligated to assure the United States the continued use of such property as is now being used by the United States for civilian governmental purposes on terms comparable to current agreements.

Subsection (b) provides that the facilities at Isely Field developed with federal aid and all facilities there usable for the landing and take-off of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge. If use by the military is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities may be charged to the military.

House Committee Report:

Section 804.—Subsection (a) provides for the cancellation, no later than the establishment of the new local government, of military retention land and other land use agreements by which the Government of the United States benefits in the Northern Marianas, and provides for the future use of such of this land as is needed by the Federal Government for civilian purposes on terms comparable to those now in effect.

Subsection (b) provides that the facilities at Isely Field developed with federal aid and all facilities there usable for the landing and take-off of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge. If use by the military is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities may be charged to the military.

/ See footnote to Senate Committee Report at Section 803.

MPSC Memorandum:

Section 804:

This Section deals with the cancellation of military retention land and other land use agreements which the Government of the United States benefits from in the Northern Marianas, and the future use of land by the federal Government for civilian purposes.

Subsection (a) provides that the Government of the United States will cause all agreements between it and the Trust Territory Government which grant to the United States use or other rights in real property in the Northern Marianas to be terminated upon or before the establishment of the new Government of the Northern Marianas. This Section has its most important affect with respect to the Use and Occupancy Agreements which cover what is commonly called "military retention land." Approximately 4,691 acres (1,898 hectares) of military retention land will be returned to the local government in accordance with this Subsection. Of course, cancellation of the Use and Occupancy agreements alone does not ensure that the land will come under the control of the local government, since title to the land is presently held by the Trust Territory Government. Therefore, this Subsection also provides that all of the Trust Territory Government's interest in such land will be transferred to the Northern Marianas Government or the legal entity no later than the time the new Marianas Government comes into effect. Since the United States has a legitimate need for civilian purposes for the continued use of certain lands now covered by agreements between it and the Trust Territory—in particular land being used by the Post Office and by the Coast Guard—this Section further provides that from the time that the local government obtains unencumbered control of and title to any real property which is then actively being used by the United States for civilian governmental purposes, the local government will assure the United States the continued use of such property on terms comparable to the terms presently enjoyed by the United States. The determination of exactly what "comparable terms" will be is left for later discussion in good faith between the two sides. It may be noted in this connection that the MPSC has consistently taken the position that the use rights of the United States under the Use and Occupancy Agreements end no later than termination of the Trusteeship.

Subsection (b) provides that the facilities at Isley Field developed with federal aid and all facilities there useable for the landing and take-off of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge. However, if use by the military is substantial, a reasonable share proportional to such use of the cost and operating and maintaining the facilities may be charged to the military. This is in accordance with federal law which requires the United States to obtain these rights when it has made contributions to airport facilities. The land at Isley Field is now military retention land, and, in accordance with Subsection (a), the United States will give up its rights under the Use and Occupancy Agreements and the present joint use agreement. The Trust Territory Government will transfer its right, title and interest in this land to the Marianas Government. Accordingly, the only rights of the United States to use Isley Field will be those it obtains under Subsection (b) of this Section.

Administration Memorandum:

SECTION 804

This section provides for the cancellation of military retention land and other land use agreements from which the Government of the United States benefits in the Northern Mariana Islands, and provides for the future use of land by the Federal Government for civilian purposes.

Subsection (a) provides that the Government of the United States will cause all agreement between it and the Trust Territory Government which grant to the United States any rights in real property in the Northern Mariana Islands to be terminated upon or before the establishment of the new Government of the Northern Mariana Islands.

Since title to such land is also held by the Trust Territory Government, this subsection also provides that all of the Trust Territory Government's land interests will be transferred to the Northern Mariana Islands' Government or the legal entity no later than the time the new Marianas Government comes into being. The local government is obligated to assure the United States the continued use of such property as is now being used by the United States for civilian governmental purposes on terms comparable to current agreements.

Subsection (b) provides that the facilities at Isley Field developed with federal aid and all facilities there useable for the landing and take-off of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge. If use by the military is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities may be charged to the military.

Section 805

Section 805. Except as otherwise provided in this Article, and notwithstanding the other provisions of this Covenant, or those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana

Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; and

(b) may regulate the extent to which a person may own or hold land which is now public land.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: Yes.

Referred to in Sections 105, 501, 1003(b).

For the definition of the terms "Government of the Northern Mariana Islands" see Section 1005(c).

["Northern Mariana Islands and"]

(b) am)

Report of the Drafting Committee:

Section 805. The parties intend that it will be the responsibility of the Government of the Northern Mariana Islands to implement the provisions of this Section. In particular, the parties understand that the Constitution or laws of the Northern Mariana Islands will define the operative terms in this Section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent".

Senate Committee Report:

Section 805.—This section assures that the people of the Northern Mariana Islands will be able to retain ownership of their land. It expressly recognizes the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands and the desirability of protecting their land against exploitation. Under this section the Government of the Northern Mariana Islands and until 25 years after the termination of the Trusteeship regulate the alienation of permanent and long-term interests in property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent, i.e., of Chamorro or Carolinian ancestry. After the expiration of this 25-year period, the Government of the Northern Mariana Islands may regulate the alienation of property as described. Moreover, the Government of the Northern Mariana Islands is specifically authorized to regulate the extent to which any one person may hold or own land which is now public land.

See footnote to Senate Committee Report at Section 803.

It is intended that it will be the responsibility of the local government to implement the provisions of this Section. In particular, the local government will define the operative terms of the section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent, i.e., Chamorro or Carolinian ancestry."

The limitation of the right to acquire land to persons of Northern Mariana Islands descent would not constitute an invidious discrimination on racial grounds prohibited by the Due Process Clause of the Fifth Amendment or the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States. Its purpose is not to confer an undue privilege on the persons of the Northern Mariana Islands descent but rather to protect them from the expected exploitation from aggressive and economically more advanced outside groups. Similar legislation has been upheld with respect to the American Indians. See, e.g., *Board of Commissioners v. Seber*, 318 U.S. 705, 715-718 (1943), pointing out that these laws were required to protect the Indians from the selfishness of others. See also *Contractors Ass'n of Eastern Pa. v. Secretary of Labor*, 442 F.2d 159, 177 (C.A. 3, 1971), cert. den., 404 U.S. 854, holding that differentiations and even quotas

designed to remedy past evils are not inconsistent with the equal protection aspects of the Fifth Amendment. The same considerations would apply to measures designed to avoid future wrongs.

There is precedent for legislation designed to protect similar interests. The Hawaiian Homes Commission Act of 1920, 42 Stat. 180, was enacted by Congress for the protection of the native Hawaiians while Hawaii was still a Territory. Section 4 of the Hawaii Statehood Act contains a provision in the nature of a compact to the effect that the Hawaiian Homes Commission Act shall become a part of the Constitution of the State of Hawaii subject to amendment and repeal only with the consent of the United States. Guam recently adopted legislation analogous to the Hawaiian Homes Commission Act.

House Committee Report:

Section 805.—This section expressly recognizes the importance of the ownership of land for the culture and traditions of the people of

the Northern Mariana Islands and the desirability of protecting their land against exploitation. Under this section, the Government of the Northern Mariana Islands must, for 25 years following termination of the Trusteeship, regulate the alienation of permanent and long-term interests in property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent, including both those of Chamorro and Carolinian ancestry. After the expiration of this 25-year period, the Government of the Northern Mariana Islands may regulate the alienation of property as described. The Government of the Northern Marianas is specifically authorized to regulate the extent to which any one person may hold or own land which is now public land. Nothing elsewhere in the Covenant (except certain provisions of Article VIII itself) or in the applicable portions of the U.S. Constitution or laws may interfere with these provisions.

MPSC Memorandum:

Section 805

This Section assures that the people of the Northern Marianas will be able to retain the ownership of their most precious asset, their land. This Section expressly recognizes the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands and the desirability of protecting them against exploitation and promoting their economic advancement and self-sufficiency. For these reasons the people of the Northern Marianas will be able to prevent the alienation of their land to outsiders, notwithstanding any other Article of the Covenant or any provision of the Constitution or treaties or laws of the United States applicable to the Northern Mariana Islands. Under this Section the Government of the Northern Mariana Islands must until 25 years after the termination of the Trusteeship regulate the alienation of permanent and long-term interests in property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent. After the expiration of this 25-year period, the Government of the Northern Mariana Islands may regulate the alienation of property as described. Moreover, the Government of the Northern Marianas is specifically authorized to regulate the extent to which any one person may hold or own land which is now public land.

It is intended that it will be the responsibility of the local government to implement the provisions of this Section. In particular, the local government will define the operative terms of the Section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent".

Section 805 is a fundamental provision of the Covenant and cannot be altered except with the mutual consent of the Government of the Northern Mariana Islands and the Government of the United States. Thus, it will be entirely up to the Government of the Northern Marianas and the people of the Northern Marianas to determine the precautions which they will take to prevent their land from being alienated. Section 805 and the underlying authority of the local government which it recognizes will permit land alienation restraints regardless of any other provision of the Covenant, except those provisions which grant the United States the lease of land in the Northern Marianas for defense purposes and permit it to acquire additional land if that ever becomes necessary. The Department of Justice expressed the view during the negotiations that properly drawn land alienation restrictions would be valid under the United States Constitution.

Administration Memorandum:

SECTION 805

This section assures that the people of the Northern Mariana Islands will be able to retain ownership of their land. It expressly recognizes the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands and the desirability of protecting their land against exploitation. Under this section the Government of the Northern Mariana Islands must until 25 years after the termination of the Trusteeship regulate the alienation of permanent and long-term interests in property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent, i.e., of Chamorro or Carolinian ancestry. After the expiration of this 25-year period, the Government of the Northern Mariana Islands may regulate the alienation of property as described. Moreover, the Government of the Northern Mariana Islands is specifically authorized to regulate the extent to which any one person may hold or own land which is now public land.

It is intended that it will be the responsibility of the local government to implement the provisions of this Section. In particular, the local government will define the operative terms of the section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent", i.e., Chamorro or Carolinian ancestry.

The limitation of the right to acquire land to persons of Northern Mariana Islands descent would not constitute an invidious discrimination on racial grounds prohibited by the Due Process Clause of the Fifth Amendment or the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States. Its purpose is not to confer an undue privilege on the persons of the Northern Mariana Islands descent but rather to protect them from the expected exploitation from aggressive and economically more advanced outside groups. Similar legislation has been upheld with respect to the American Indians. See, e.g., *Board of Commissioners v. Seber*, 318 U.S. 705, 715-718 (1943), pointing out that these laws were required to protect the Indians from the selfishness of others. See also *Contractors Ass'n of Eastern Pa. v. Secretary of Labor*, 442 F. 2d 159, 177 (C.A. 3, 1971), cert. den., 404 U.S. 854, holding that differentiations and even quotas designed to remedy past evils are not inconsistent with the equal protection aspects of the Fifth Amendment. The same considerations would apply to measures designed to avoid future wrongs.

There is precedent for legislation designed to protect similar interests. The Hawaiian Homes Commission Act of 1920, 42 Stat. 180, was enacted by Congress for the protection of the native Hawaiians while Hawaii was still a Territory. Section 4 of the Hawaii Statehood Act contains a provision in the nature of a compact to the effect that the Hawaiian Homes Commission Act shall become a

part of the Constitution of the State of Hawaii subject to amendment and repeal only with the consent of the United States. Guam recently adopted legislation analogous to the Hawaiian Homes Commission Act.

Section 806

(a) *The United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred to it under this Covenant, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property.*

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(b) The United States may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain. No interest in real property will be acquired unless duly authorized by the Congress of the United States and appropriations are available therefor.

(c) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union. The power of eminent domain will be exercised within the Commonwealth only to the extent necessary and in compliance with applicable United States laws, and with full recognition of the due process required by the United States Constitution.

Effective Date: See Section 1003(c).

Mutual Consent Requirement:

Referred to in Section None. *No Northern Mariana Islands and*
For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Report of the Drafting Committee:

Subsection 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.

Senate Committee Report:

Section 806.—This section deals with the authority of the United States to acquire land in the future which it may need for governmental purposes.

See footnote to Senate Committee Report at Section 803.

Section 808(a) provides that the United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands as an island community. It further provides that if the United States must acquire any interest in real property which it does not obtain under the Covenant, the United States will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required; of seeking only the minimum interest in real property necessary to support that public purpose, of acquiring title only if the public enterprise cannot be accomplished with a lesser interest; and of seeking first to satisfy its requirement by acquiring an interest in public rather than private land.

Subsection (b) provides that the United States may, after written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the United States and the owner of the property. The United States is required by this section in all cases to attempt to acquire an interest in real property for public purposes by voluntary means before exercising the power of eminent domain.

Subsection (c) provides that in the event it is not possible for the United States to obtain an interest in real property for public purpose by voluntary means, the United States will have and may exercise within the Northern Mariana Islands the power of eminent domain to the same extent and in the same manner it has and can exercise the power in a state. The power of eminent domain will be exercised only to the extent necessary and in compliance with applicable federal law, and with full recognition of the due process required by the United States Constitution.

House Committee Report:

Section 806.—This section deals with the authority of the United States to acquire land in the future which it may need for governmental purposes.

Section 806(a) provides that the United States will continue to recognize and respect the scarcity and special importance of land in the Northern Marianas. If the United States must acquire any interest in real property which it does not obtain under the Covenant, the United States will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required; of seeking only the minimum interest in real property necessary to support that public purpose, of acquiring title only if the public enterprise cannot be accomplished with a lesser interest; and of seeking first to satisfy its requirement by acquiring an interest in public rather than private land.

Subsection (b) provides that the United States may, after written notice to the Government of the Northern Marianas, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Marianas by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the United States and the owner of the property. The United States is required by this section in all cases to attempt to acquire an interest in real property for public purposes by voluntary means before exercising the power of eminent domain.

Subsection (c) provides that in the event it is not possible for the United States to obtain an interest in real property for public purpose by voluntary means, the United States will have and may exercise within the Northern Marianas the power of eminent domain to the same extent and in the same manner it has and can exercise the power in a state. The power of eminent domain will be exercised only to the extent necessary and in compliance with applicable federal law, and with full recognition of the due process required by the United States Constitution.

MPSC-Memorandum:

Section 806

Section 806 deals with the authority of the United States to acquire land in the future which it may need for governmental purposes.

Section 806(a) provides that the United States will continue to recognize and respect the scarcity and special importance of land in the Northern Marianas. It further provides that if the United States must acquire any interest in real property which it does not obtain under the Covenant, the United States will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required; of seeking only the minimum interest in real property necessary to support that public purpose, acquiring title only if the public enterprise cannot be accomplished with a lesser interest;

and of seeking first to satisfy its requirement by acquiring an interest in public rather than private land. While this is said to be the general United States policy with respect to land acquisition, the inclusion of a commitment by the United States to follow this policy in a formal political status agreement appears to be unique to the Northern Marianas. This commitment provides significant protections against the arbitrary or improper use of the authority of the United States to acquire property in the Commonwealth. This is especially so in view of the fact that under Section 903 the undertakings of the United States are enforceable in federal court.

Subsection (b) provides that the United States may, after written notice to the Government of the Northern Marianas, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Marianas by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the United States and the owner of the property. The United States is required by this Section in all cases to attempt to acquire an interest in real property for public purposes by voluntary means before exercising the power of eminent domain. The requirement of prior written notice to the local government means that the local government can assist a landowner who believes that his property is wrongly being taken, and can notify the Resident Representative of the Northern Marianas in Washington who can

influence the Congress and the Executive Branch and inform them of the views of the local people. This is particularly important in view of the fact that Subsection (b) provides that no interest in real property will be acquired by the United States unless the acquisition has been duly authorized by the Congress and appropriations are available to pay the landowner just compensation.

Subsection (c) provides that in the event it is not possible for the United States to obtain an interest in real property for public purpose by voluntary means, the United States will have and may exercise within the Northern Marianas the power of eminent domain to the same extent and in the same manner it has and can exercise the power of eminent domain in a state. The Subsection goes on to provide that the power of eminent domain will be exercised only to the extent necessary and in compliance with applicable federal law, and with full recognition of the due process required by the United States Constitution.

The power of eminent domain is the power held by every central government in the world. It is an integral part of sovereignty and therefore a necessary aspect of a close and enduring relationship between the Northern Marianas and the United States. There are many protections established in federal law and in the United States Constitution which prevent the arbitrary use of the power of eminent domain by the Federal Government. All of the protections which are applicable in a state will be applicable in the Northern Marianas. The protections against the improper use of the eminent domain power include the following: Congress must authorize the acquisition and provide funds to pay the landowner; land can be acquired only for a valid public purpose; just compensation as determined in court with a jury trial available must be paid to the landowner. In addition to these protections which are applicable in the states, the Covenant provides additional protections—the policy stated in Subsection (a) and the requirement of prior written notice to the local government contained in Subsection (b).

Section 806 becomes effective upon the establishment of the Commonwealth of the Northern Mariana Islands in political union with the United States upon termination of the Trusteeship Agreement. Prior to that time, the United States will have no different power in the Northern Marianas with respect to the acquisition of use rights in land than it now has.

Administration Memorandum:

SECTION 806

This section deals with the authority of the United States to acquire land in the future which it may need for governmental purposes.

Section 806(a) provides that the United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands as an island community. It further provides that if the United States must acquire any interest in real property which it does not obtain under the Covenant, the United States will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required; of seeking only the minimum interest in real property necessary to support that public purpose, of acquiring title only if the public enterprise cannot be accomplished with a lesser interest; and of seeking first to satisfy its requirement by acquiring an interest in public rather than private land.

Subsection (b) provides that the United States may, after written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the United States and the owner of the property. The United States is required by this section in all cases to attempt to acquire an interest in real property for public purposes by voluntary means before exercising the power of eminent domain.

Subsection (c) provides that in the event it is not possible for the United States to obtain an interest in real property for public purpose by voluntary means, the United States will have and may exercise within the Northern Mariana Islands the power of eminent domain to the same extent and in the same manner it has and can exercise the power in a state. The power of eminent domain will be exercised only to the extent necessary and in compliance with applicable federal law, and with full recognition of the due process required by the United States Constitution.

ARTICLE IX

Northern Mariana Islands
Representative and Consultation

Section 901. The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b).

Fuller definition of the term "Northern Mariana Islands" see Section 1005(2).
Report of the Drafting Committee:

Section 901. This Section is not intended to preclude the Government of the Northern Mariana Islands from requesting the Congress of the United States to confer non-voting delegate status on the Resident Representative provided for in this Section.

Senate Committee Report:

ARTICLE IX—NORTHERN MARIANA ISLANDS REPRESENTATIVE
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 United States Government.

Section 901.—This section provides that the Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the United States Government. The term of office of the Resident Representative will be two years, unless otherwise determined by local law. The Representative must be a citizen and a resident of the Northern Mariana Islands, must be at least 25 years of age, and, after termination of the Trusteeship Agreement, must be a citizen of the United States. The manner in which the Representative will be selected is left to the local government.

The Resident Representative is not a voting or non-voting member of the House of Representatives. Congress has accorded the territory of Guam the right to elect a non-voting delegate, but such a provision is not provided in the Covenant. There is no prohibition in the Covenant, however, which would prevent the Congress from providing for such representation at a future time.

House Committee Report:

Article IX—Northern Mariana Islands Representative and Consultation

Section 901.—This section provides that the Constitution or laws of the Northern Marianas may provide for the appointment or election of a Resident Representative to the United States, who will be entitled

to receive official recognition as such Representative by all of the departments and agencies of the United States Government.

The term of office of the Resident Representative will be two years, unless otherwise determined by local law. The Representative must be a citizen and a resident of the Northern Mariana Islands, must be at least 25 years of age, and, after termination of the Trusteeship Agreement, must be a citizen of the United States. The manner in which the Representative will be selected is left to the local government.

MPSC Memorandum:

ARTICLE IX—NORTHERN MARIANA ISLANDS REPRESENTATIVE 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 United States Government.

Section 901

This Section provides that the Constitution or laws of the Northern Marianas may provide for the appointment or election of a Resident Representative to the United States, who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the United States Government. The term of office of the Resident Representative will be two years, unless otherwise determined by local law. The Representative must be a citizen and a resident of the Northern Mariana Islands, must be at least 25 years of age, and, after termination of the Trusteeship Agreement, must be a citizen of the United States.

The manner in which the Representative will be selected is left to the local government, which is entirely appropriate since the Northern Marianas will be self-governing. It is anticipated, of course, that the Representative will be elected. But it is still desirable to allow the appointment of a Representative so that, for example, interim appointments could be made when the office becomes vacant because of death or resignation. The requirement that the Representative be a United States citizen is postponed until after termination of the Trusteeship Agreement, of course, because people in the Northern Marianas will not generally become citizens of the United States until that time. Section 901 itself is effective immediately upon the establishment of the new Government of the Northern Marianas, which will be before the termination of the Trusteeship.

The negotiating history makes it clear that Section 901 does not preclude the Government of the Northern Marianas from requesting that the Resident Representative be given non-voting delegate status in the Congress of the United States. During the negotiations the MPSC, with the support of the Executive Branch of the U.S. Government, was not able to obtain a firm commitment for such a non-voting delegate. The principal reason given was the small population in the Marianas compared with the population in Guam and the Virgin Islands at the time those territories were given non-voting delegates.

Administration Memorandum:

SECTION 901

This section provides that the Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the United States Government. The term of office of the Resident Representative will be two years, unless otherwise determined by local law. The Representative must be a citizen and a resident of the Northern Mariana Islands, must be at least 25 years of age, after termination of the Trusteeship Agreement, must be a citizen of the United States. The manner in which the Representative will be selected is left to the local government.

Section 902

Section 902. The Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less

frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of every period of such financial assistance.

Effective Date: See Section 1003(b).

Mutual Consent Requirement: No.

Referred to in Section 1003(b) of the Covenant and Section 2 of Public Law 94-241 approving the Covenant.

For the definition of the terms "Government of the Northern Mariana Islands" see Section 1005(c).

Section 2 of Public Law 94-241 provides:

Sec. 2. It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within ten years from the date of the enactment of this resolution, the President of the United States should request, on behalf of the United States, the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

The report of the Senate Foreign Relations Committee (S. Rept. 94-596) reads in pertinent part at p. 14:

"* * * Senator Javits made two proposals. * * *

Second, because the Covenant might not give to the Marianans participation in the United States government which they may later desire and also to neutralize any argument that this was a step toward American "colonization" of part of its "trust", Senator Javits proposed giving the people of the Marianas the option to review their decision. Taking a portion of Section 902, found in Article IX, Senator Javits asked that a sense of the Congress resolution be appended to the end of the H.J. Res. 549 to read as follows:

It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within 10 years from the date of the enactment of this resolution, the President of the United States should request on behalf of the United States the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

FOREIGN RELATIONS COMMITTEE VOTE

By a voice vote Senator Javit's sense of the Congress amendment was approved with only Senator Percy dissenting on the grounds that he was reluctant to make it appear that the United States had any indecision or doubts about giving full and final approval of the Covenant.

Senate Committee Report:

Section 902.—This section provides that the Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than once every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship as may be designated by either Government. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to section 701, and will meet at least one year prior to the expiration of every multi-year period of such financial assistance.

House Committee Report:

Section 902.—Section 902 provides that the Government of the United States and the Government of the Northern Marianas will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than once every ten years, the President of the United States and the Governor of the Northern Marianas will designate special representatives to meet and to consider in good faith such issues affecting the relationship as may be designated by either Government.

MPSC Memorandum:

Section 902
Section 902 provides that the Government of the United States and the Government of the Northern Marianas will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than once every ten years, the President of the United States and the Governor of the Northern Marianas will designate special representatives to meet and to consider in good faith such issues affecting the relationship as may be designated by either Government. The special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Marianas pursuant to Section 701, and will meet at least one year prior to the expiration of every multi-year period of such financial assistance.

This important provision of the Covenant assures that each side to the relationship will be aware of and therefore sympathetic to the needs and desires of the other side. There is no such guarantee of contact and formal communication made by the United States to the territories or to the Commonwealth of Puerto Rico.

Administration Memorandum:

SECTION 902

This section provides that the Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than once every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship as may be designated by either Government. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to section 701, and will meet at least one year prior to the expiration of every multi-year period of such financial assistance.

Section 903

Section 903. Nothing herein shall prevent the presentation of cases or controversies arising under this Covenant to courts established by the Constitution or laws of the United States. It is intended that any such cases or controversies will be justiciable in such courts and that the undertakings by the Government of the United States and by the Government of the Northern Mariana Islands provided for in this Covenant will be enforceable in such courts.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: No.

Referred to in Section 1003(a).

For the definition of the term "Government of the Northern Mariana Islands" see Section 1005(c).

Senate Committee Report:

Section 903.—This section assures that nothing in the Covenant, in particular Article IX dealing with consultation, shall prevent the presentation of cases arising under the Covenant to the federal courts. Section 903 expresses the intent of the United States and the Northern Mariana Islands that such cases be heard in those courts, and that the undertakings or promises by the Government of the United States and by the Government of the Northern Mariana Islands provided for in the Covenant will be enforceable.

House Committee Report:

Section 903.—This section provides that nothing in the Covenant shall prevent the presentation of cases arising under the Covenant to the federal courts. Section 903 expresses the intent of the United States and the Northern Marianas that such cases be heard in those courts, and that the undertakings or promises by the Government of the United States and by the Government of the Northern Marianas provided for in the Covenant will be enforceable.

MPSC Memorandum:

Section 903

This Section assures that nothing in the Covenant, in particular Article IX dealing with consultation, is deemed to prevent the presentation of cases arising under the Covenant to the federal courts. Section 903 expresses the clear intent of the United States and the Northern Marianas that such cases can be heard in those courts, and that the undertakings or promises by the Government of the United States and by the Government of the Northern Marianas provided for in the Covenant will be enforceable. This is a basic protection which guarantees to both sides that the enforcement powers of the federal courts can be brought to bear with respect to promises made in the Covenant. It also helps to assure that the courts do not hold that it would be inappropriate for them to issue a judgment in a case involving the Covenant because of the circumstances under which it was entered into or because of the consultation provisions. Finally, it helps to assure that doctrines like sovereign immunity which might under some circumstances prevent adjudication of the merits of a case cannot be interposed.

Administration Memorandum:

SECTION 903

This section assures that nothing in the Covenant, in particular Article IX dealing with consultation, shall prevent the presentation of cases arising under the Covenant to the federal courts. Section 903 expresses the intent of the United States and the Northern Mariana Islands that such cases be heard in those courts, and that the undertakings or promises by the Government of the United States and by the Government of the Northern Mariana Islands provided for in the Covenant will be enforceable.

Section 904

(a) The Government of the United States will give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands and will provide opportunities for the effective presentation of such views to no less extent than such opportunities are provided to any other territory or possession under comparable circumstances.

(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

(c) On its request the Northern Mariana Islands may participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances.

Effective Date: See Section 1003(c).

Mutual Consent Requirement:

No

Referred to in Section 1003(c). *Northern Mariana Islands and*
For the definition of the terms "Government of the Northern Mariana Islands" see Section 1005(c).

Report of the Drafting Committee:

Subsection 904(c). The parties note that this Subsection is not intended to preclude the Government of the Northern Mariana Islands from discussing matters of mutual concern with other Pacific island communities.

Report of the Senate Committee:

Section 904.—This section deals with three aspects of international relations which are of particular concern to the Northern Mariana Islands.

Subsection (a) provides that the United States Government will give sympathetic consideration to the advice of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands. The subsection also assures the Govern-

ment of the Northern Mariana Islands that it will be provided with opportunities for the effective presentation of its views to no less an extent than such opportunities are provided to any other territory or possession (see section 1005(d)) under comparable circumstances.

Subsection (b) provides that the United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and in foreign countries to promote local tourist and other economic and cultural interests of the Northern Mariana Islands.

Subsection (c) provides that the Northern Mariana Islands may, upon their request, participate in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for other United States territories or possessions under comparable circumstances.

House Committee Report:

Section 904.—Section 904 deals with three aspects of international relations which are of particular concern to the Northern Marianas.

Subsection (a) provides that the United States Government will give sympathetic consideration to the advice of the Government of the Northern Marianas on international matters directly affecting the Northern Marianas. It also assures the Government of the Northern Marianas that it will be provided with opportunities for the effective presentation of its views on such matters to no less an extent than such opportunities are provided to any other territory or possession under comparable circumstances.

Subsection (b) provides that the United States will assist and facilitate the establishment by the Northern Marianas of offices in the United States and in foreign countries to promote local tourist and other economic and cultural interests of the Northern Marianas.

Subsection (c) provides that the Northern Marianas may, upon its request, participate in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for other United States territories or possessions under comparable circumstances.

MPSC Memorandum:

Section 904.

Section 904 deals with three aspects of international relations which are of particular concern to the Northern Marianas.

Subsection (a) provides that the United States Government will give sympathetic consideration to the advice of the Government of the Northern Marianas on international matters directly affecting the Northern Marianas. This is a formal statement of the kind of relationship which would have been expected in any event. The Subsection also assures the Government of the Northern Marianas that it will be provided with opportunity for the effective presentation of its views to no less an extent than such opportunities are provided to any other territory or possession (including the Commonwealth of Puerto Rico) under comparable circumstances. This means that the local government will have an opportunity to express its views with respect to international matters to the proper agencies of the United States Government, and also that the local government will have an opportunity to have its representatives participate in the delegations the United States sends to international functions, to the extent stated in this Subsection.

Subsection (b) provides that the United States will assist and facilitate the establishment by the Northern Marianas of offices in the United States and in foreign countries to promote local tourist and other economic and cultural interests of the Northern Marianas.

Subsection (c) provides that the Northern Marianas may, upon its request, participate in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for other United States territories or possessions (including the Commonwealth of Puerto Rico), under comparable circumstances. For example, the Commonwealth of Puerto Rico was recently authorized by Congress to join the Caribbean Development Bank. Similar participation by the Northern Marianas in similar regional organizations would also be appropriate, if the local government desires.

Administration Memorandum:

SECTION 904

This section deals with three aspects of international relations which are of particular concern to the Northern Mariana Islands.

Subsection (a) provides that the United States Government will give sympathetic consideration to the advice of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands. The subsection also assures the Government of the Northern Mariana Islands that it will be provided with opportunities for the effective presentation of its views to no less an extent than such opportunities are provided to any other territory or possession (see section 1005(d)) under comparable circumstances.

Subsection (b) provides that the United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and in foreign countries to promote local tourist and other economic and cultural interests of the Northern Mariana Islands.

Subsection (c) provides that the Northern Mariana Islands may, upon their request, participate in regional or other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for other United States territories or possessions under comparable circumstances.

ARTICLE X

Approval, Effective Dates, and Definitions

Section 1001.

Section 1001

(a) This Covenant will be submitted to the Mariana Islands District Legislature for its approval. After its approval by the Mariana Islands District Legislature, this Covenant will be submitted to the people of the Northern Mariana Islands for approval in a plebiscite to be called by the United States. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet such other qualifications, including timely registration, as are promulgated by the United States as administering authority will be eligible to vote in the plebiscite. Approval must be by a majority of at least 55% of the valid votes cast in the plebiscite. The results of the plebiscite will be certified to the President of the United States.

(b) This Covenant will be approved by the United States in accordance with its constitutional processes and will thereupon become law.

Effective Date: See Section 1003(a).
Mutual Consent Requirement: No.
Referred to in Section 1003(a).
For the definition of the terms "Northern Mariana Islands" and "Domicile" see Section 1003(b) and (e).

Report of the Drafting Committee:

Section 1001. In accordance with the request of the Marianas District Legislature, the United States intends to administer the Mariana Islands District separately from the remainder of the Trust Territory following approval of the Covenant by the people of the Northern Mariana Islands. In establishing other qualifications for voting in the plebiscite the United States will consult with representatives of the Marianas District Legislature and other local leaders.

Senate Committee Report:

ARTICLE X—APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

Article X deals with the mechanism by which the Covenant will be approved, establishes dates at which various sections of the Covenant will become effective, and provides definitions of certain important terms which are used throughout the document.

Section 1001.—This section deals with the method by which the Covenant will be approved.

Subsection (a) deals with approval on behalf of the Northern Mariana Islands. As provided in this subsection the Covenant was submitted to the Mariana Islands District Legislature, which approved it for submission to the people of the Northern Mariana Islands in a

plebiscite. The next step was the plebiscite itself. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet other requirements promulgated by the United States as administering authority were eligible to vote in the plebiscite. The United States did consult with the leaders of the Northern Mariana Islands in determining the requirements for voting in the plebiscite. Approval had to be by a majority of at least 55% of the valid votes cast in the plebiscite. The Covenant was approved on June 17, 1975, by a majority of 78.8% of the votes cast. The result of the plebiscite was certified to the President of the United States. The plebiscite was observed by a delegation from the United Nations Trusteeship Council.

Subsection (b) of section 1001 provides that the Covenant will be approved by the United States in accordance with its constitutional processes and that it will thereupon become law. The approval of the Covenant by the Congress therefore will not have the effect of the approval of an Executive Agreement but will constitute the enactment of its provisions into statutory law.

House Committee Report:

Article X—Approval, Effective Dates, and Definitions

Section 1001.—This section deals with the method by which the Covenant will be approved.

Subsection (a) provides for approval on behalf of the Northern Marianas. As requested by this subsection, the Covenant has been submitted to the Mariana Islands District Legislature, which has approved it for submission to the people of the Northern Marianas in a plebiscite. The next step was the plebiscite. Only persons who were domiciled exclusively in the Northern Marianas and who met other requirements promulgated by the United States as administering authority were eligible to vote in the plebiscite. (The Covenant was ap-

proved unanimously by the Mariana Islands District Legislature, and with 95% of the registered voters participating, 78.8% voted in favor of the Covenant.)

Subsection (b) provides that the Covenant will be approved by the United States in accordance with its constitutional processes. This process will include approval by the Congress, and signature of the approved document by the President. The Covenant will thereupon become part of the law of the United States.

MPSC Memorandum:

ARTICLE X—APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

Article X deals with the mechanism by which the Covenant will be approved, establishes dates at which various sections of the Covenant will become effective, and provides definitions of certain important terms which are used throughout the document.

Section 1001.

This Section deals with the method by which the Covenant will be approved. Subsection (a) deals with approval on behalf of the Northern Marianas. The Covenant will be submitted to the Mariana Islands District Legislature, which will be asked to approve it so the people of the Northern Marianas can vote on it in a plebiscite. After that, the Covenant will be submitted to the people of the Northern Marianas, who will vote on it in an exercise of their sovereign right of self-determination. The plebiscite will be called by the United States. Only persons who are domiciled exclusively in the Northern Marianas and who meet other requirements promulgated by the United States as administering authority—including the requirement of timely registration—will be eligible to vote in the plebiscite. The United States will consult with the leaders of the Northern Marianas in determining the requirements for voting in the plebiscite. The requirements will be designed to protect the integrity of the vote on the Covenant by assuring that only the people of the Northern Marianas vote in the plebiscite. Approval must be given by majority of at least 55% of the valid votes cast in the plebiscite, and the result of the plebiscite will be certified to the President of the United States.

In accordance with the request of the Mariana Islands District Legislature, the United States as administering authority intends to separate the Mariana Islands District from the remainder of the Trust Territory for purposes of administration following the approval of the Covenant in the plebiscite.

Subsection (b) of Section 1001 provides that the Covenant will be approved by the United States in accordance with its constitutional processes. The constitutional process includes approval by both houses of the Congress and by the President of the United States. After this process has been completed, the Covenant will become a law of the United States and will have the full force and effect of any other statute of the United States in addition to its role in defining the relationship between the United States and the Northern Marianas.

During the period after the Covenant is signed through to the time the new Government of the Northern Marianas comes into existence, a transition program agreed by the MPSC and the President's personal representative will be going on. The outlines of this program are contained in a report of a Joint Ad Hoc Preparatory Committee on Transition. The Report describes the program of studies and events which will lead to the establishment of the new local government under its own constitution. Studies will be undertaken relating to government organization. Planning for the Marianas Constitutional Convention will be done, as will research and planning for the initial legislative session of the new Marianas legislature. Research on federal programs and services which may be available will also be done. There will in addition be studies relating to economic and social development planning, fiscal and revenue planning, and the impact of the relocation of the capital of the Trust Territory. Events anticipated will include a political status education program and status plebiscite, the Constitutional Convention, a constitutional education program and constitutional referendum, and the election of a new government.

A Joint Commission on Transition, consisting of representatives of the Northern Marianas and the United States, will be established to provide continuing consultation and policy guidance on all matters related to the change in political status. To assist in an office consisting of highly qualified professionals is to be established. This office will help develop transition plans, conduct basic economic studies, arrange for the employment of experts and administer funds which are to be made available by the United States for these activities in the amount of approximately \$1.5 million over 2 years.

Administration Memorandum:

SECTION 1001

This section deals with the method by which the Covenant will be approved. Subsection (a) deals with approval on behalf of the Northern Mariana Islands. As provided in this subsection the Covenant was submitted to the Mariana Islands District Legislature, which approved it for submission to the people of the Northern Mariana Islands in a plebiscite. The next step was the plebiscite itself. Only persons who were domiciled exclusively in the Northern Mariana Islands and who met other requirements promulgated by the United States as administering authority were eligible to vote in the plebiscite. The United States consulted with the leaders of the Northern Mariana Islands in determining the requirements for voting in the plebiscite. Approval had to be by a majority of at least 55% of the valid votes cast in the plebiscite. The Covenant had been approved on June 17, 1975, by a majority of 78.8% of the votes cast. The result of the plebiscite was certified to the President of the United States.

Subsection (b) of section 1001 provides that the Covenant will be approved by the United States in accordance with its constitutional processes and that it will thereupon become law. The approval of the Covenant by the Congress therefore will not have the effect of the approval of an Executive Agreement but will constitute the enactment of its provisions into statutory law.

Section 1002

Section 1002. The President of the United States will issue a proclamation announcing the termination of the Trusteehip Agreement, or the date on which the Trusteehip Agreement will terminate, and the establishment of the Commonwealth in accordance with this Covenant. Any determination by the President that the Trusteehip Agreement has been terminated or will be terminated on a day certain will be final and will not be subject to review by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Mariana Islands or the United States.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: No.

Referred to in Section 1003(e).

For the definition of the terms "Trusteehip Agreement" and "Northern Mariana Islands" see Section 1005(a) and (b).

Report of the Drafting Committee:

Section 1002. The parties note that the United States has stated that it is now planning on a provisional basis to terminate the Trusteeship for all the districts by 1981.

Senate Committee Report:

Section 1002.—This section provides that the President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement and the establishment of the Commonwealth. Any such determination by the President that the Trusteeship has been or will be terminated will not be reviewable by any authority, judicial or otherwise, of the Trust Territory, of the Northern Marianas, or of the United States.

The reason for this provision is to prevent the lapse between the termination of the Trusteeship Agreement and the establishment of the commonwealth which would result from judicial proceedings challenging the Presidential determination that the Trusteeship Agreement has been terminated. For a precedent of a provision precluding reviewability of Executive action, see, e.g., 38 U.S.C. 211 (a).

House Committee Report:

Section 1002.—This section provides that the President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement and the establishment of the Commonwealth. Any such determination by the President that the Trusteeship has been or will be terminated will not be reviewable by any authority, judicial or otherwise, of the Trust Territory, of the Northern Marianas, or of the United States. The United States hopes to be able to terminate the Trusteeship by 1981.

MPSC Memorandum:

Section 1002

This Section provides that the President of the United States will issue a proclamation announcing termination of the Trusteeship Agreement and the establishment of the Commonwealth. Any such determination by the President

that the Trusteeship has ended will not be reviewable by any authority, judicial or otherwise, of the Trust Territory, of the Northern Marianas, or of the United States. In view of the political and international legal aspects of the determination as to when the Trusteeship Agreement has terminated, it is appropriate to leave this matter entirely into the hands of the President.

Administration Memorandum:

SECTION 1002

This section provides that the President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement and the establishment of the Commonwealth. Any such determination by the President that the Trusteeship has been or will be terminated will not be reviewable by any authority, judicial or otherwise, of the Trust Territory, of the Northern Marianas, or of the United States.

The reason for this provision is to prevent the lapse between the termination of the Trusteeship Agreement and the establishment of the commonwealth which would result from judicial proceedings challenging the Presidential determination that the Trusteeship Agreement has been terminated. For a precedent of a provision precluding reviewability of Executive action, see, e.g., 38 U.S.C. 211 (a).

Section 1003

Section 1003. The provisions of this Covenant will become ¹⁰⁰⁹⁻²¹ effective as follows, unless otherwise specifically provided:

(a) Section 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant,

(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

Effective Date: See Section 1003(a).
Mutual Consent Requirement: No.
Referred to in Sections 1003a, 1004.

Note: (1) The effective date pursuant to Section 1003(b) is affected by the provisions of Section 1004.

(2) The Sections of the Covenant which become effective pursuant to Section 1003(c) are Sections 101, 104, 301, 302, 303, 506, 806, and 904.

For the definition of the term "Trusteeship Agreement" see Section 1005(a).

Senate Committee Report:

Section 1003.—This section deals with the effective dates of various provisions of the Covenant. Basically it provides for the provisions to become effective in three phases: the first phase upon approval of the Covenant by both sides; the second phase on a date to be determined and proclaimed by the President of the United States which is within 180 days after the Covenant and the local Constitution of the Northern Mariana Islands have been approved by both sides; and the third phase upon termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands in accordance with the Covenant.

Subsection (a) makes a few important provisions of the Covenant effective immediately upon approval by both sides. They are the provisions relating to mutual consent; the Constitution of the Northern Mariana Islands; the inapplicability of certain federal laws; the establishment of the Commission on Federal Laws; the arrangements relating to social security; the requirement that land held by the Trust Territory Government be transferred to the Government of the Northern Mariana Islands; the enforceability of undertakings by both the United States and the local government; and the provisions relating to approval, effective dates, and definitions.

Under subsection (b) virtually all of the remaining important portions of the Covenant will become effective on a date determined and proclaimed by the President which will be within six months after both the Covenant and the Constitution of the Northern Mariana Islands have been approved by both sides. The main exceptions are those provisions the effectiveness of which would be inconsistent with the Trusteeship Agreement. At that time the relations between the United States and the Northern Mariana Islands will be governed by the Covenant; federal laws will become applicable; the federal court will be established; the applicable portions of the United States Constitution will come into effect; the revenue and taxation provisions will become effective; all of Article VII dealing with financial assistance will come into effect; most of Article VIII dealing with land will come into force; and the provisions in Article IX guaranteeing to the Northern Mariana Islands a Resident Representative in Washington and the right of periodic consultation will become effective.

Subsection (c) provides that the remaining provisions of the Covenant will become effective upon termination of the Trusteeship Agreement. These are: Section 101, which creates the Commonwealth in political union with and under the sovereignty of the United States; section 104, which grants the United States authority with respect to foreign affairs and defense (the United States will continue to have this authority under the Trusteeship Agreement until its termination); section 301-03, which deal with United States

citizenship and nationality; section 506, which is designed to handle certain problems which may arise because the immigration and naturalization laws of the United States will not be applicable to the Northern Mariana Islands unless and until Congress so provides; section 806, which deals with the authority of the United States to acquire title to property in the Northern Mariana Islands; and section 904, which deals with the participation by the Northern Mariana Islands in certain international affairs. It was considered inappropriate to bring these sections into effect prior to termination of the Trusteeship, because of the special nature of the Trusteeship Agreement and the relationship between the United States and the Trust Territory of the Pacific Islands.

House Committee Report:

Section 1003.—Section 1003 deals with the effective dates of various provisions of the Covenant.

Subsection (a) provides that the following provisions of the Covenant will be effective immediately upon approval by both sides:

- (1) the requirements for mutual consent;
- (2) drafting and approving the Constitution of the Northern Marianas;
- (3) the inapplicability of certain federal laws;
- (4) the establishment of the Commission on Federal Laws;
- (5) the trust arrangements relating to the Northern Mariana Islands Social Security System;
- (6) the requirement that land held by the Trust Territory Government will be transferred to the Northern Marianas Government;
- (7) the enforceability of undertakings by both the United States and the local government; and
- (8) the provisions for establishing the effective dates of the provisions of the Covenant will become effective upon approval of the Covenant.

Under Subsection (b), all the remaining important portions of the Covenant, other than those which relate to United States sovereignty and United States citizenship and nationality, will become effective on a date which will be within six months after both the Covenant and the Constitution of the Northern Marianas have been approved by both the United States and the Northern Mariana Islands. These include provisions relating to:

- (1) the relations between the United States and the Northern Mariana Islands
- (2) extension of federal laws
- (3) establishing the federal court
- (4) the specific application of provisions of the United States Constitution
- (5) revenue and taxation provisions
- (6) all of Article VII dealing with financial assistance
- (7) most of Article VIII dealing with land and
- (8) the provisions in Article IX guaranteeing to the Northern Marianas a Resident Representative in Washington and the right of periodic consultation,

Subsection (c) provides that the remaining provisions of the Covenant will become effective upon termination of the Trusteeship Agreement. These are:

- (1) Section 101, which creates the Commonwealth in political union with and under the sovereignty of the United States
- (2) Section 104, which grants the United States authority with respect to foreign affairs and defense (the United States will continue to have this authority under the Trusteeship Agreement until its termination)
- (3) Sections 301-03, which deal with United States citizenship and nationality
- (4) Section 506, which is designed to handle certain problems which may arise because the immigration and naturalization laws of the United States will not be applicable to the Northern Marianas
- (5) Section 806, which deals with the authority of the United States to acquire property in the Northern Marianas and
- (6) Section 904, which deals with Marianas participation in certain international affairs.

MPSC Memorandum:

Section 1003

Section 1003 deals with the effective dates of various provisions of the Covenant. Basically it provides for the provisions to become effective in three phases: the first phase upon approval by the Covenant by both sides; the second phase on a date to be determined and proclaimed by the President of the United States which is within 180 days after the Covenant and the local Constitution of the Northern Marianas have been approved by both sides; and the third phase upon termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Marianas in accordance with the Covenant.

Subsection (a) makes a few important provisions of the Covenant effective immediately upon approval by both sides. The provisions relating to mutual consent, to the Constitution of Northern Marianas, to the inapplicability of certain federal laws, to the establishment of the Commission on Federal Laws, to the arrangements relating to social security, to the requirement that land held by the Trust Territory Government be disposed of to only the Northern Marianas Government, to the enforceability of undertakings by both the United States and the local government, and to the effective dates of the provisions of the Covenant, will all become effective at this time.

Under Subsection (b) all of the remaining important portions of the Covenant, other than those which relate to the United States sovereignty and United States citizenship and nationality, will become effective on a date which will be within six months after both the Covenant and the Constitution of the Northern Marianas have been approved by both sides. At that time the new government under its own Constitution will come into existence. At that time the relations between the United States and the Northern Marianas will be governed by the Covenant; federal laws will become applicable; the federal court will be established; the applicable portions of the United States Constitution will come into effect; the revenue and taxation provisions will become effective; all of Article VII dealing with financial assistance will come into effect; most of Article VIII dealing with land will come into force; and the provisions in Article IX guaranteeing to the Northern Marianas a Resident Representative in Washington and the right of periodic consultation will become effective.

It is anticipated that while the Congress of the United States is considering the Covenant the people of the Marianas will be preparing for and perhaps conducting their Constitutional Convention. After it has been approved by the people, the Northern Marianas Constitution will be submitted to the United States for review. Under Section 202 if the Constitution is not earlier approved or disapproved by the United States within six months it will become effective; and that will be the trigger for Subsection 1001(b). It should be emphasized that the provisions of the Covenant which come into effect in accordance with Section 1001(b) can come into effect whether or not the Trusteeship has been terminated. This assures the Marianas people of as many of the benefits of the new political status as possible, and protects them in the event that the Trusteeship is not promptly terminated for reasons which are outside of their control.

Subsection (c) provides that the remaining provisions of the Covenant will become effective upon termination of the Trusteeship Agreement. The United States has publicly stated its intention to terminate the Trusteeship for all of Micronesia by 1981. It is upon termination of the Trusteeship that, under Section 101, the Commonwealth of the Northern Marianas Islands comes into effect. The provisions which become effective under Subsection (c) are Section 101, which creates the Commonwealth in political union within and under the sovereignty of the United States; Section 104, which grants United States authority with respect to foreign affairs and defense; Sections 301-03, which deal with United States citizenship and nationality; Section 506, which is designed to handle certain problems which may arise because the immigration and naturalization laws of the United States will not be applicable to the Northern Marianas; Section 806, which deals with the authority of the United States to acquire property in the Northern Marianas; Section 904, which deals with Marianas participation in certain international affairs. It was considered inappropriate to bring these Sections into effect prior to termination of the Trusteeship, because of the special nature of the Trusteeship Agreement and the relationship between the United States and the Trust Territory of the Pacific Islands.

The delay in the effective date of Section 104 and Section 904 until the termination of the Trusteeship Agreement is based on the view that the United States has the authority over international and defense affairs under the Trusteeship Agreement. It should not be taken to imply that the United States does not have this authority prior to termination or that the United States will not or should not consult with the Government of the Northern Marianas with respect to the exercise of that authority in appropriate situations.

Administration Memorandum:

SECTION 1003

This section deals with the effective dates of various provisions of the Covenant. Basically it provides for the provisions to become effective in three phases: the first phase upon approval of the Covenant by both sides; the second phase on a date to be determined and proclaimed by the President of the United States which is within 180 days after the Covenant and the local Constitution of the Northern Mariana Islands have been approved by both sides; and the third phase upon termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands in accordance with the Covenant.

Subsection (a) makes a few important provisions of the Covenant effective immediately upon approval by both sides. They are the provisions relating to mutual consent; the Constitution of the Northern Mariana Islands; the inapplicability of certain federal laws; the establishment of the Commission on Federal Laws; the arrangements relating to social security; the requirement that land held by the Trust Territory Government be transferred to the Government of the Northern Mariana Islands; the enforceability of undertakings by both the United States and the local government; and the provisions relating to approval, effective dates, and definitions.

Under subsection (b) virtually all of the remaining important portions of the Covenant will become effective on a date determined and proclaimed by the President which will be within six months after both the Covenant and the Constitution of the Northern Mariana Islands have been approved by both sides. The main exceptions are those provisions the effectiveness of which would be inconsistent with the Trusteeship Agreement. At that time the relations between the United States and the Northern Mariana Islands will be governed by the Covenant; federal laws will become applicable; the federal court will be established; the applicable portions of the United States Constitution will come into effect; the revenue and taxation provisions will become effective; all of Article VII dealing with financial assistance will come into effect; most of Article VIII dealing with land will come into force; and the provisions in Article IX guaranteeing to the Northern Mariana Islands a Resident Representative in Washington and the right of periodic consultation will become effective.

Subsection (c) provides that the remaining provisions of the Covenant will become effective upon termination of the Trusteeship Agreement. These are: Section 101, which creates the Commonwealth in political union with and under the sovereignty of the United States; section 104, which grants the United States authority with respect to foreign affairs and defense (the United States will continue to have this authority under the Trusteeship Agreement until its termination); section 301-03, which deal with United States citizenship and nationality; section 506, which is designed to handle certain problems which may arise because the immigration and naturalization laws of the United States will not be applicable to the Northern Mariana Islands unless and until Congress so provides; section 806, which deals with the authority of the United States to acquire title to property in the Northern Mariana Islands; and section 904, which deals with the participation by the Northern Mariana Islands in certain international affairs. It was considered inappropriate to bring these sections into effect prior to termination of the Trusteeship, because of the special nature of the Trusteeship Agreement and the relationship between the United States and the Trust Territory of the Pacific Islands.

Section 1004

(a) The application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

(b) The Constitution of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Covenant specified in Subsection 1003(b) become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement, such provision will be ineffective until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands the Constitution will become effective in its entirety in accordance with its terms as the Constitution of the Commonwealth of the Northern Mariana Islands.

Effective Date: See Section 1003(a).

Mutual Consent Requirement: No.

Referred to in Section 1003(a).

For the definition of the terms "Trusteeship Agreement" and "Northern Mariana Islands" see Sections 1005(a) and (b).

Senate Committee Report:

Section 1004.—This section deals with certain transitional matters pending the termination of the Trusteeship and the establishment of the Commonwealth of the Northern Mariana Islands.

Subsection (a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement. This provision is intended to give the President some flexibility to prevent a law which might otherwise be made applicable by the formula set forth in section 502 or otherwise, from being applicable if it would conflict with the international obligations which the United States undertook in the Trusteeship Agreement.

Subsection (b) provides that the Constitution of the Northern Mariana Islands will come into effect in accordance with its terms on the same day that the provisions of the Covenant specified in section 1003(b) become effective—that is, on a day chosen by the President of the United States which is within 180 days after both the Covenant and the local Constitution have been approved by both sides. This means that there will be a new Government of the Northern Mariana Islands, although not yet the Commonwealth Government, headed by an elected Governor and an elected bicameral legislature, as provided for in section 203. Subsection (b) also gives the President of the United States the authority to delay the effectiveness of any provision of the local constitution prior to termination if he finds that implementation of such a provision would be inconsistent with the Trusteeship Agreement. Again, this provision gives the President flexibility necessary to assure that the United States does not violate any of its obligations under the Trusteeship Agreement.

House Committee Report:

Section 1004.—This section deals with certain matters prior to the termination of the Trusteeship and the establishment of the Commonwealth.

Subsection (a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Marianas may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

Subsection (b) provides that the Constitution of the Northern Marianas will come into effect on a day chosen by the President of the United States which is within 180 days after both the Covenant and the local Constitution have been approved by both sides. Subsection (b) also gives the President of the United States the authority to delay the effectiveness of any provision of the local Constitution prior to the termination of the Trusteeship if he finds that implementation of such provision would be inconsistent with the Trusteeship Agreement.

MPSC Memorandum:

Section 1004

This Section deals with certain transitional matters pending the termination of the Trusteeship and the establishment of the Commonwealth of the Northern Marianas.

Subsection (a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Marianas may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement. This provision is intended to give the President some flexibility to prevent a law which might otherwise be made applicable by the formula or otherwise from being applicable if it would conflict with the international obligations which the United States undertook in the Trusteeship Agreement. It appears that there are only a few such laws—the Selective Service Law, for example, might fall into this category if the military draft became effective—and the standard stated in Subsection (a) is sufficiently precise to assure that there will be no arbitrary action denying to the Northern Marianas the benefits of the Covenant prior to termination.

Subsection (b) provides that the Constitution of the Northern Marianas will come into effect in accordance with its terms on the same day that the provisions of the Covenant specified in Section 1003(b) become effective—that is, on a day chosen by the President of the United States which is within 180 days after both the Covenant and the local Constitution have been approved by both sides. This assures that the Constitution will come into effect and provides for the establishment of a new government on that day. Under Subsection (b) the President of the United States is given the authority to delay the effectiveness of any provision of the local constitution prior to termination if such a provision is inconsistent with the Trusteeship Agreement. Again, this provision gives the United States the flexibility which it needs to assure that it is able to comply with the international obligations it undertook in the Trusteeship Agreement. It is difficult to imagine that there would be any such provision in the Constitution of the Northern Marianas. In any event, Subsection (b) specifically provides that upon the establishment of the Commonwealth the Constitution of the Northern Marianas will become effective in its entirety in accordance with its terms, as the Constitution of the Commonwealth of the Northern Mariana Islands.

Administration Memorandum:

SECTION 1004

This section deals with certain transitional matters pending the termination of the Trusteeship and the establishment of the Commonwealth of the Northern Mariana Islands.

Subsection (a) provides that the application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement. This provision is intended to give the President some flexibility to prevent a law which might otherwise be made applicable by the formula set forth in section 502 or otherwise, from being applicable if it would conflict with the international obligations which the United States undertook in the Trusteeship Agreement.

Subsection (b) provides that the Constitution of the Northern Mariana Islands will come into effect in accordance with its terms on the same day that the provisions of the Covenant specified in section 1003(b) become effective—that is, on a day chosen by the President of the United States which is within 180 days after both the Covenant and the local Constitution have been approved by both sides. This means that there will be a new Government of the Northern Mariana Islands, although not yet the Commonwealth Government, headed by an elected Governor and an elected bicameral legislature, as provided for in section 2C3. Subsection (b) also gives the President of the United States the authority to delay the effectiveness of any provision of the local constitution prior to termination if he finds that implementation of such a provision would be inconsistent with the Trusteeship Agreement. Again, this provision gives the President flexibility necessary to assure that the United States does not violate any of its obligations under the Trusteeship Agreement.

Section 1005

Section 1005. As used in this Covenant:

(a) "Trusteeship Agreement" means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

(b) "Northern Mariana Islands" means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

(c) "Government of the Northern Mariana Islands" includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

(d) "Territory or possession" with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

(e) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

Effective Date: See Section 1003(a).
Mutual Consent Requirement: No, but see Report of
Drafting Committee on Section 101.
Referred to in Section 1003(a).

Senate Committee Report:

Section 1005.—This section defines certain important terms used in the Covenant.

Subsection (a) defines "Trusteeship Agreement".

Subsection (b) defines the "Northern Mariana Islands" in geographic terms.

Subsection (c) defines the terms "Government of the Northern Mariana Islands" to include, as appropriate in the context, the Government of the Mariana Islands District at the time the Covenant is signed and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

Subsection (d) defines the term "Territory or possession" with respect to the United States to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Subsection (e) defines the term "Domicile" to mean that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period. This is the standard legal definition of domicile.

House Committee Report:

Section 1005.—This section defines certain important terms used in the Covenant.

Subsection (a) defines "Trusteeship Agreement".

Subsection (b) defines the "Northern Mariana Islands" in geographic terms.

Subsection (c) defines the term "Government of the Northern Mariana Islands" to include, as appropriate in the context, the Government of the Mariana Islands District at the time the Covenant is signed and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

Subsection (d) defines the term "Territory or possession" with respect to the United States to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Subsection (e) defines the term "Domicile" to mean that place where a person maintains a residence with the intention of continuing such

residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period. This is the standard legal definition of "domicile".

MPSC Memorandum:

Section 1005

Subsection (a) defines "Trusteeship Agreement" to assure that it is clearly understood that the Trusteeship Agreement which covers the Trust Territory of the Pacific Islands is the one to which the Covenant refers.

Subsection (b) defines the "Northern Mariana Islands" in geographic terms. As is noted in the discussion under Section 101, the definition of Northern Mariana Islands in this regard and the use of the term in Section 101 helps assure the territorial integrity of the Commonwealth and prevents reintegration with Guam without the consent of the people of the Northern Marianas.

Subsection (c) defines the term "Government of the Northern Mariana Islands" to include, as appropriate in the context, the Government of the Mariana Islands District at the time the Covenant is signed and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

Subsection (d) defines the term "Territory or possession" with respect to the United States to include, but not to be limited to, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Subsection (e) defines the term "Domicile" to mean that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period. This is the standard legal definition of domicile.

Administration Memorandum:

SECTION 1005

This section defines certain important terms used in the Covenant.

Subsection (a) defines "Trusteeship Agreement".

Subsection (b) defines the "Northern Mariana Islands" in geographic terms.

Subsection (c) defines the terms "Government of the Northern Mariana Islands," to include, as appropriate in the context, the Government of the Mariana Islands District at the time the Covenant is signed and its successors, including the Government of the Commonwealth of the Northern Mariana Islands.

Subsection (d) defines the term "Territory or possession" with respect to the United States to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

Subsection (e) defines the term "Domicile" to mean that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period. This is the standard legal definition of domicile.

A P P E N D I X

A

TECHNICAL AGREEMENT REGARDING USE OF LAND TO BE LEASED

BY THE UNITED STATES IN THE NORTHERN MARIANA ISLANDS

The duly authorized representatives of the United States and the people of the Northern Mariana Islands,

Considering that they have today entered into a formal Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States;

Recognizing that Sections 802 and 803 of that Covenant contain provisions relating to the use of land to be leased by the United States in the Northern Mariana Islands for defense purposes;

Noting that the extent of land required for use by the United States has been determined and the precise boundaries agreed upon by both parties hereto; and

Desiring that all basic arrangements relative to land be reduced to a formal land agreement;

Have now entered into the following Technical Agreement which will be deemed to have been approved when the District Legislature of the Mariana Islands District of the Trust Territory of the Pacific Islands approves the Covenant, and which will become effective on the date that Sections 802 and 803 of the Covenant come into force.

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/ This Technical Agreement was concluded pursuant to the provisions of Section 803(c) of the Covenant.

Section 803 of the MPSC Memorandum contains a discussion of its terms.

PART I. MATTERS TO BE INCLUDED IN LAND LEASES
WITH THE UNITED STATES

1. Description. Lands to be leased by the United States for defense purposes are set forth in Section 802 of the Covenant and are further described and depicted on the maps attached as Exhibits A, B, and C.

2. Acquisition. The Government of the Northern Mariana Islands or the legal land entity established by the Marianas District Legislature to receive and administer public lands in the Northern Mariana Islands, immediately upon request, will execute the lease for the lands being conveyed to the United States Government as described in paragraph 1, above, with the duly authorized representatives of the United States under the terms set forth in Section 803 of the Covenant.

Payment under the lease will be made as soon as practicable after the appropriation of funds by the Congress of the United States. The United States may enjoy full and unrestricted use of the land immediately upon making the above payment. The amount to be paid will be adjusted at the time of payment by a percentage which is the same as the percentage change, up or down, in the United States Department of Commerce composite price index from the date of signing of the Covenant.

Should payment not be made within five years from the date that Sections 802 and 803 of the Covenant

the lease. In no event will either party impede the action of the other with respect to the Micronesian Development Corporation lease. The United States Government will be responsible for damages resulting from a breach or early termination of the Micronesian Development Corporation lease resulting solely from United States initiatives. The Government of the Northern Mariana Islands will be responsible for damages resulting from a breach or early termination resulting solely from its initiatives. Both the United States Government and the Government of the Northern Mariana Islands or its legal entity will hold the other harmless from all claims arising by reason of such breaches or termination.

4. Disposal. Should the property leased to the United States on Tinian not be required for the needs or the discharge of the responsibilities of the United States Government, or otherwise become surplus property under United States law, the Government of the Northern Mariana Islands or the legal entity will be given first opportunity to acquire the interest of the Government of the United States in such property in accordance with United States law.

5. Leasebacks.

A. Tinian.

(1) General. A total of approximately 6,458 acres (2,614 hectares) out of a total of approximately

17,799 acres (7,203 hectares) on Tinian will be leased back from the land on Tinian described in paragraph 1, above, at such time as the lease to the United States Government for the land on Tinian becomes effective. All leasebacks on Tinian made pursuant to this Agreement will be subject to the following restrictions which will be contained in the leases and will be incorporated in any subleases executed by the Government of the Northern Mariana Islands or by the legal entity:

a. Uses of land must be compatible with planned military activities;

b. There will be no permanent construction without prior consent;

c. Federal Aviation Administration safety zone areas apply with respect to land use;

d. Uses that damage or have a detrimental effect on subsequent use of the land will not be permitted;

e. All leasebacks will be subject to cancellation upon one year's notice, or sooner in the event of urgent military requirement or national emergency; and

f. Provisions for fair compensation in the event of cancellation or early termination will be included.

(2) Area South of Present West Field. Approximately 1,335 acres (540 hectares) lying south of West Field including

the harbor area, as indicated in Exhibit A, will be made available to the Government of the Northern Mariana Islands or the legal entity under leaseback. This leaseback will be for a term of ten years with renewal rights for an additional ten years upon the approval of the United States Government, except for the harbor area which will be on a five year basis renewable with United States Government approval. These leasebacks will be for the sum of one dollar per acre per year. The Government of the Northern Mariana Islands or the legal entity may in turn sub-lease these lands on terms compatible with the leaseback, with such sub-leases subject to immediate revocation in the event of violation of their terms. Permissible uses are grazing, agriculture that does not interfere with flight safety, and other possible uses that may be approved from time to time by the United States Government.

(3) Area North of Present West Field and East of Broadway. The lands north of West Field and east of Broadway, indicated in Exhibit A, will continue to be used in accordance with the terms and conditions of the current lease with the Micronesia Development Corporation. This includes approximately 4,010 acres (1,623 hectares).

(4) Military Maneuver Area on Tinian--Grazing Leases. The United States will lease back the land within all but two of the existing grazing leases in the proposed maneuver area north of West Field shown in Exhibit A.

Substitute grazing leases will be made available within areas set aside for maneuvers north of West Field for the two leases indicated in Exhibit A which are presently located in areas with a high probability of their being used by United States forces, which renders them unsuitable for leaseback. This agreement is limited to accommodation of persons actually using this leased land for grazing purposes as of December 19, 1974. All such leases will be for five years at one dollar per acre per year, renewable with United States Government approval for additional periods of up to five years and subject to immediate revocation in the event of violation of their terms. Grazing will be the only use permitted unless authorized by the United States Government. Approximately 610 acres (247 hectares) will be leased back in this category.

(5) Military Maneuver Area on Tinian--Present Private Owners. There are 38 deeded homestead parcels and six pending homesteads in the maneuver area as indicated in Exhibit A. The Government of the Northern Mariana Islands or the legal entity will acquire the land at no additional cost to the United States Government and will provide an opportunity for the owners of these homesteads who may be eligible for new homesteads as a result of their displacement to exchange their land with comparable lands outside the military area. The homestead owners will be fully compensated by the Government of the Northern Mariana Islands or by

the legal entity if they do not choose this exchange and will, in addition, receive from the United States Government whatever relocation compensation and assistance to which they would be entitled under United States law. After this land now held as homesteads is acquired by the United States Government by lease from the Government of the Northern Mariana Islands or from the legal entity the United States Government will, on a case-by-case basis and on request, lease it back to those former owners who wish to continue to farm the land for periods of five years at one dollar per acre per year, renewable with United States approval for additional periods of up to five years. Approximately 503 acres (204 hectares) are involved in this category.

(6) Civilian Aviation Terminal Facilities, West Field. The present existing civilian air terminal may remain until its relocation is determined to be necessary by the United States Government. Sufficient land will be made available at nominal cost adjacent to the present or a future runway for civilian terminal facilities, including aprons, aircraft parking, terminal building(s), automobile parking and roadways. If a future relocation becomes necessary, the United States will reimburse the Government of the Northern Mariana Islands for fair value of the then-existing terminal building and make alternate land available at nominal cost as near to the runways and related taxiways

as practicable for construction by the Government of the Northern Mariana Islands of new terminal facilities. The costs of again relocating the terminal facilities, along with construction costs for necessary replacement of apron and parking areas, will be borne by the United States Government. Ample land provision will be made, also at nominal cost, for necessary growth and expansion of the civilian facility.

B. Saipan--Tanapag Harbor.

The United States Government will make available to the Government of the Northern Mariana Islands without cost 133 acres (53.8 hectares) out of the 177 acres (71.6 hectares) leased to the United States Government at Tanapag Harbor, as indicated in Exhibit B. This area will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas campaign. Two million dollars (\$2,000,000) of the total funds paid by the United States Government will be placed in a trust fund by the Government of the Northern Mariana Islands, or by the legal entity, with income from the fund used to develop and maintain the memorial park. Income from this trust fund may be utilized for other purposes only with the concurrence of the United States Government. The United States will assist in this development by providing assistance in planning and technical advice. Adequate space will be provided the United States Government to

of the Northern Mariana Islands, when such agency or agencies have been established by the Government of the Northern Mariana Islands, which will cover among other things the following:

1. San Jose Harbor, Tinian. San Jose Harbor will initially be under Government of the Northern Mariana Islands control under specific terms of the leaseback. If a decision is made by the Department of Defense to implement plans for an operational joint service base on Tinian, appropriate joint control arrangements will be agreed upon for the construction and subsequent periods to accommodate the needs of the civilian community along with military needs. At such time as joint control arrangements become necessary, the feasibility of adopting standards which will permit uninterrupted commercial shipping operations during fuel transfer operations will be investigated so as to minimize the possible interference with civilian activity. When the United States upgrades the existing harbor the Government of the Northern Mariana Islands will upgrade its approximately 600 feet of wharf space or reimburse the United States for having such services performed as part of the United States construction project.

With respect to the two plots totalling approximately nine acres (3.6 hectares) immediately adjacent to the 600 foot civilian wharf shown in Exhibit A, the Government

of the Northern Mariana Islands will place appropriate restrictions on their use for harbor-related activities only.

2. West Field, Tinian

A. General Use. For aviation purposes the Government of the Northern Mariana Islands and the civilian community of Tinian will have continuous joint use of West Field with exceptions for safety of flight and priority military operations. The Government of the Northern Mariana Islands will have operational responsibility for West Field, except during periods of military use, until the United States assumes permanent operational responsibility. During such periods the Department of Defense will assume operational responsibility and control.

B. Development Costs. The cost of improving and maintaining present civilian terminal facilities and future civilian terminal facilities will be borne by the Government of the Northern Mariana Islands.

C. Fuel Supplies. After the United States military takes over control and management of the field standard military aviation fuels and oils will be supplied as soon as they become available, subject to Federal Energy Administration allocation, on a cost basis by the Government of the United States to the Government of the Northern Mariana Islands for civil and compatible commercial aviation needs on Tinian. It is understood that provision of such

fuels and oils will not be permitted to compete with private commercial enterprises performing this service.

D. Terminal Utilities. The Government of the United States during its planning of future base facilities will take into consideration the needs of the future civilian terminal area for water, power, telephone and other utilities applicable to a terminal facility so as to make available to the civilian terminal appropriate utility hookups at the closest practicable locations to allow for civilian development of these utilities and joint use thereafter on a reimbursable basis.

E. Use of Present Facilities. The use of facilities presently in existence at the West Field location and the use of the present air strip will continue on an uninterrupted basis prior to, during and subsequent to initial construction upgrade and during any future improvement program to the greatest extent possible. There will be close coordination with the Government of the Northern Mariana Islands to insure as little hardship as possible should interruptions of the use of the present West Field and its terminal facilities be necessary for military operations such as maneuvers. The use of a runway and taxiways may be curtailed from time to time to allow appropriate and adequate construction and repair work to be accomplished. This construction and repair work will at all times be

coordinated with the civilian community so as to minimize any hardships involved.

F. United States Facilities. When an operational military airfield is established at West Field, Tinian, the United States Government will provide such aircraft and structural fire protection services and aircraft crash rescue services as are available. The cost of such services shall be borne by the United States Government, subject to charging appropriate fees for users of these services.

G. Landing Fees. At such time as the military forces permanently take over operation of West Field, commercial aircraft will be charged the minimum allowable landing fees according to the standard policy of the appropriate military department, and collection will be in accordance with the terms of the formal joint use agreement. In the interim the Government of the Northern Mariana Islands may establish and collect landing fees from all non-United States Government aircraft.

H. Access, Security and Customs.

(1) Access to the present and future civilian air terminal area will be unrestricted.

(2) Security in and around the present and future civilian air terminal and operation and maintenance of the civilian facilities will be the responsibility of the Government of the Northern Mariana Islands or its representative.

(3) Customs inspections of all persons, baggage and freight will be in accord with all applicable laws and implementing regulations with the general principle established that whenever and wherever possible this customs inspection shall be performed in the military area by customs inspectors arranged for by the military and in the civilian area by customs inspectors arranged for by the Government of the Northern Mariana Islands.

PART III. SOCIAL AND CIVIL INFRASTRUCTURE ARRANGEMENTS

The following provisions, unless modified in writing by mutual agreement of the duly authorized representatives of the United States Government and the Government of the Northern Mariana Islands, will govern the future relations between the United States military forces in the Northern Mariana Islands and the civil authorities thereof. Coordination on these arrangements will be accomplished through a Civil-Military Advisory Council organized as soon as required after implementation of this Agreement.

1. Civilian Responsibilities. It is understood that the Government of the Northern Mariana Islands has full responsibility for planning, as well as developing, all facilities and services for the Tinian civilian community.

2. Fishing and Shoreline Activities, Tinian.
All shoreline areas in and around the northern two-thirds

of Tinian will remain open to fishermen at all possible times except for those limited areas that must be closed to comply with safety, security and hazardous risk requirements as may develop from either military activities or commercial activities.

3. Beaches, Tinian. Marianas citizens will have the same access to beach areas in the military areas of Tinian for recreational purposes as military personnel and their dependents. During times of military maneuvers, operations or related activity the use of certain beaches or areas of the beach will be restricted. Closure for such purposes, however, will be kept to a minimum consistent with military requirements in the interest of safety and security. Conduct of all personnel within the beach areas and use of these areas will be subject to applicable military regulations.

4. Utilities

A. Utilities planning will be undertaken for Tinian on an island-wide basis, taking into account reasonable projections of civilian population at the time development by the military becomes necessary. Planning accomplished by the United States will be closely coordinated with planning by the Government of the Northern Mariana Islands. The Government of the Northern Mariana Islands will bear the cost of civilian planning by either undertaking

the planning work or reimbursing the United States for planning services.

B. The Government of the Northern Mariana Islands will take necessary action to obtain such federal funds as are available for planning pursuant to the Housing and Community Development Act of 1974 and other relevant laws.

C. When utilities are constructed for military purposes the United States Government will make excess capacity of utilities available to the civilian community on Tinian on an appropriate fee basis if desired. Use of this excess capacity by the civilian community is to be without contribution into the development costs of the capacity, and the United States Government will not be expected to create or to insure any such excess capacity for the civilian community on Tinian.

D. When utilities are constructed for military purposes, additional capacity can be added subject to full payment for the incremental costs by the Government of the Northern Mariana Islands.

5. Water. Potable water will be made available to the United States military base by the Government of the Northern Mariana Islands at a mutually agreed cost.

6. Medical Care. In accordance with applicable guidelines and regulations, emergency care in military facilities established on Tinian will be provided by the

military to all residents of Tinian when available on the island. In addition medical care in military health facilities on Tinian on a non-emergency basis will be provided residents of Tinian where civilian capacity is non-existent, subject to the capacity and capability of the military and professional staff and availability of such Tinian military health facilities. Costs for all medical care will be at the prevailing reimbursement rates.

7. Fire Protection. When military firefighting facilities become necessary a mutual fire protection aid agreement similar to that type of agreement presently provided voluntarily by the military services in other locations will be entered into between the military facility on Tinian and the local community.

8. Base Exchange, Commissary and Movies. At such time as an operating base is established purchasing of commodities by the civilian community from the base exchange and commissary will be prohibited, but use of base movies by the civilian community as guests in accordance with existing regulations will be permitted.

9. Schools. Prior to the arrival of significant numbers of school age dependents of military personnel, appropriate local and federal officials will initiate such advance consultation and school development programs as necessary to secure federal assistance as may be required

for an integrated local school system adequate to provide for all stages of Tinian's development. The Department of Defense will consult with and advise the appropriate officials of the Northern Mariana Islands as soon as possible regarding such programmed arrivals.

10. Assistance to the Community. The United States Government will consider sympathetically all bona fide requests from the community or its residents for materials or technical assistance, from resources on the base, in the event local resources are insufficient to meet the community needs.

11. Economic Opportunity. To the extent practicable appropriate United States military and civilian authorities or contractors executing United States Government contracts will attempt to utilize the resources and services of people of the Northern Mariana Islands in construction, development, supply and maintenance activities in the Marianas. Further, United States military and civilian authorities will, whenever practicable, provide technical and training assistance to the people of the Northern Mariana Islands in accordance with applicable United States law to assist in their achievement of necessary skills.

PART IV. IMPLEMENTATION

This Technical Agreement will become effective

when Sections 802 and 803 of the Covenant come into force.

Subordinate formal implementing agreements are to be executed
as soon as possible.

Signed at Saipan, Mariana Islands on the fifteenth
day of February, 1975.

FOR THE PEOPLE OF THE NORTHERN
MARIANA ISLANDS

FOR THE UNITED STATES OF AMERICA

Edward DLG. Pangelinan
Edward DLG. Pangelinan
Chairman, Marianas
Political Status Commission

F. Hayden Williams
Ambassador F. Hayden Williams
Personal Representative of the
President of the United States

Vicente N. Santos
Vicente N. Santos
Vice Chairman, Marianas
Political Status Commission

Members of the Marianas Political Status Commission:

Juan LG. Cabrera
Juan LG. Cabrera

Joaquin I. Pangelinan
Joaquin I. Pangelinan

Vicente T. Camacho
Vicente T. Camacho

Manuel A. Sablan
Manuel A. Sablan

Jose R. Cruz
Jose R. Cruz

Joannes B. Taimanao
Joannes B. Taimanao

Bernard V. Hofschneider
Bernard V. Hofschneider

Benjamin T. Manglona
Benjamin T. Manglona

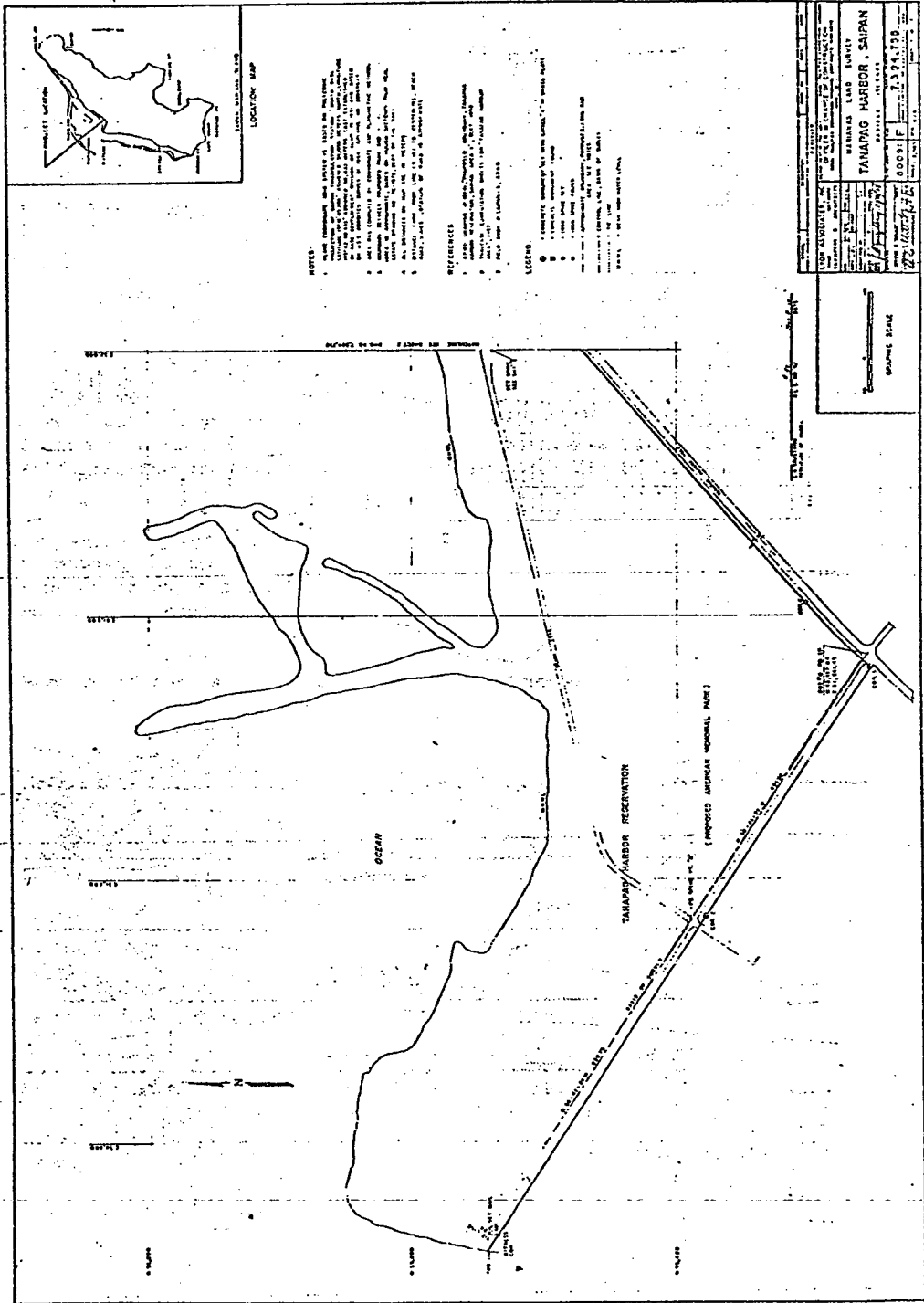
Pedro A. Tenorio
Pedro A. Tenorio

Daniel T. Muna
Daniel T. Muna

Dr. Francisco T. Palacios
Dr. Francisco T. Palacios

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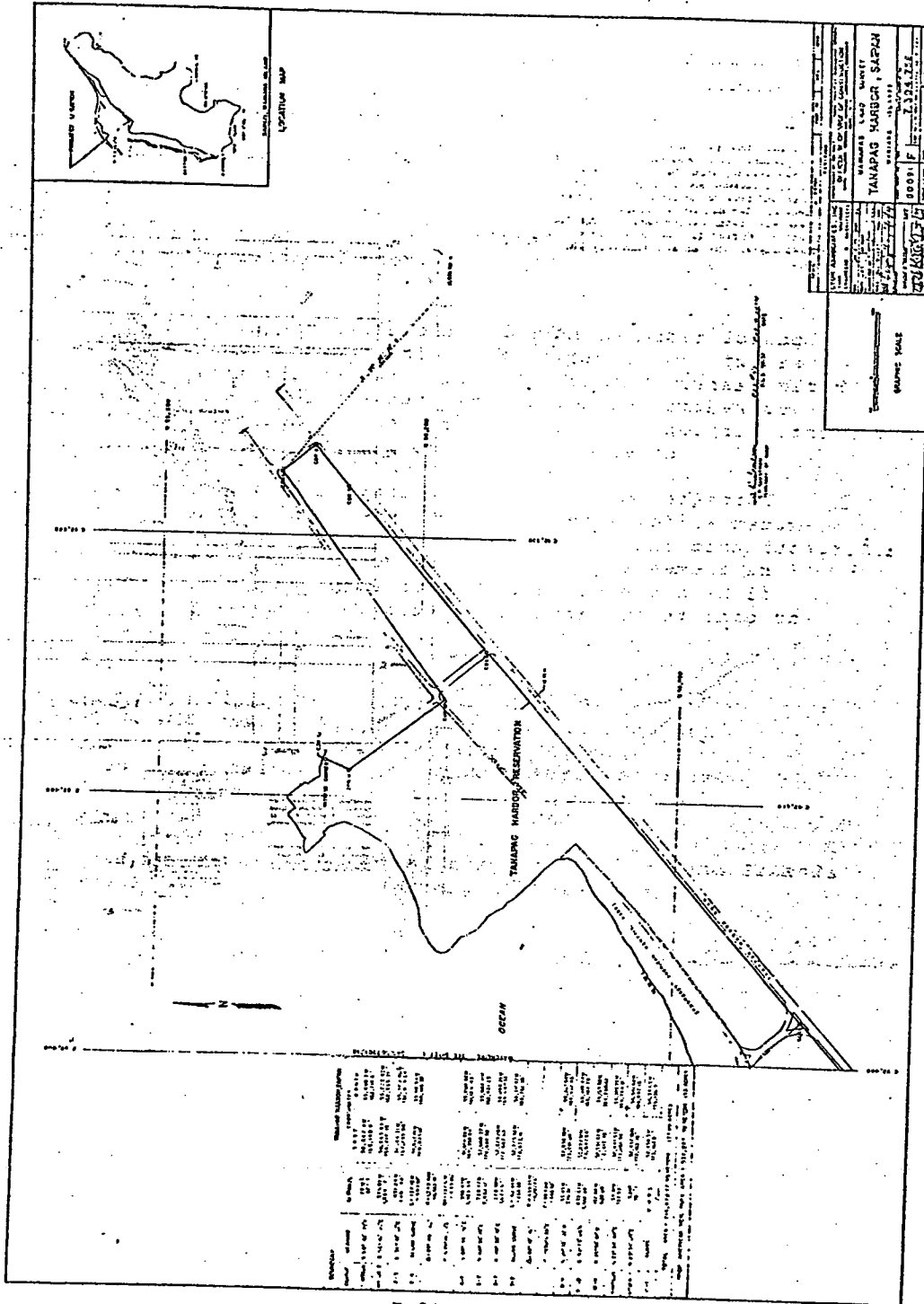
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NOTES:
1. CHART REVISIONS: THIS CHART IS BASED ON THE CHART OF 1956, REVISIONS BEING INDICATED BY A STAR (*) IN THE MARGINS OF THIS CHART. CHANGES ARE INDICATED BY A STAR (*) IN THE MARGINS OF THIS CHART. CHANGES ARE INDICATED BY A STAR (*) IN THE MARGINS OF THIS CHART. CHANGES ARE INDICATED BY A STAR (*) IN THE MARGINS OF THIS CHART.

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| UNITED STATES DEPARTMENT OF THE ARMY ENGINEER REGIMENT, 1ST AVIATION BRIGADE SAIPAN, GUAM | |
| DATE | 13 FEB 1977 |
| PROJECT | TANAPAG HARBOR, SAIPAN |
| REVISION | 1 |
| DRAWN BY | 00081 F |
| SCALE | 1:25,000 |
| GRAPHIC SCALE | 1:25,000 |



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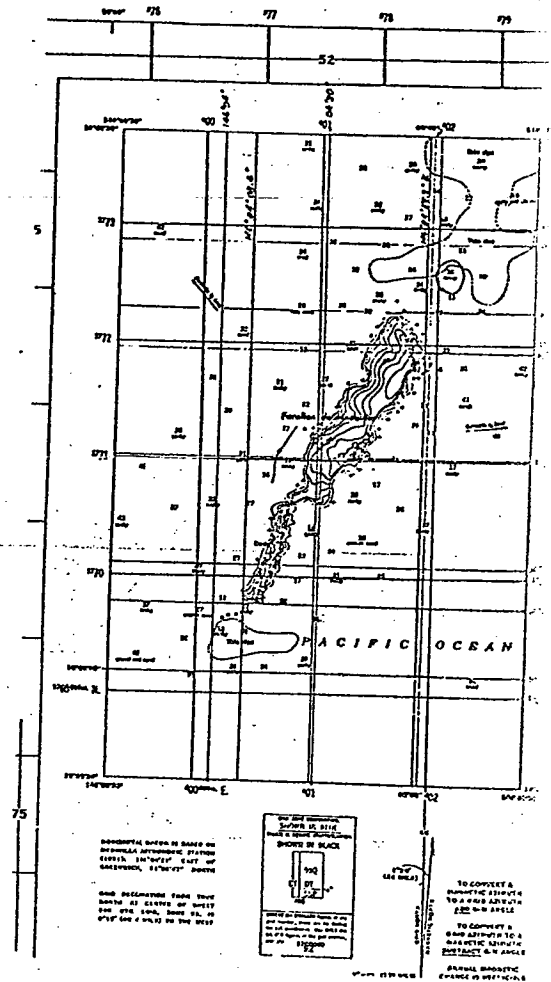
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FARALLON DE MEDINILLA

MARIANA ISLANDS

Description as follows:

That certain land mass known as Farallon de Medinilla, located in the Mariana Islands group approximately 45 miles North-northeast of Saipan Island, lying between latitudes 16 degrees 00 minutes 19.1 seconds and 16 degrees 01 minutes 04.6 seconds North and between longitudes 146 degrees 04 minutes 08.6 seconds East and 146 degrees 04 minutes 58.9 seconds East, said land mass being approximately 9,200 feet (2,800 meters) long and 1,700 feet (500 meters) wide at its widest point and containing an area of approximately 206 acres (83.6 hectares).



B.

B-1 Report of the Drafting Committee

MEMORANDUM FOR:

The Chairman, Marianas Political Status Commission

The President's Personal Representative for
Micronesia Status Negotiations

SUBJECT:

Report of the Joint Drafting Committee on the
Negotiating History

Pursuant to decisions taken in December during the fifth series of negotiations in Saipan on the future political status of the Marianas, the joint Marianas-United States Drafting Committee has met and has undertaken to record the intention of the parties regarding certain provisions of the Covenant. We submit our report herewith.

The results of our discussions are reflected in the attached draft negotiating history which is recommended by the Joint Drafting Committee for your consideration. The draft serves to set out our tentative agreement on a number of substantive matters. We recommend that it be approved by both delegations and incorporated into the official record.

Howard P. Willens
Howard P. Willens
Counsel
Marianas Political
Status Commission

James M. Wilson Jr.
James M. Wilson Jr.
United States
Deputy Representative

Approved by the delegations of the Northern Mariana Islands and the United States on February fifteenth, 1975.

Edward DLG. Pangelinan
Edward DLG. Pangelinan
Chairman
Marianas Political
Status Commission

F. Haydn Williams
Ambassador F. Haydn Williams
The President's Personal
Representative for
Micronesia Status Negotiations

REPORT OF THE DRAFTING COMMITTEE

Section 101. Inasmuch as the definition of the term "Northern Mariana Islands" in Subsection 1005(b) is incorporated in Article I, it is understood that the geographic integrity of the Northern Mariana Islands is subject to the mutual consent requirement of Section 105.

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

Section 104. Reference to the federal powers mentioned in this Section is not intended to derogate from the sovereignty vested in the United States by Section 101 or the legislative powers vested in the United States by Section 105.

Section 105. It is intended that prior to the termination of the Trusteeship Agreement the consent of the Northern Mariana Islands envisaged by this Section may not be given without the consent of the popularly elected legislature. It is understood that the authority of the United States under this Section will be exercised through, among other provisions of the United States Constitution, Article IV, Section 3, Clause 2.

Section 202. 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). It is the intention of the parties that the provision stating that the legislative powers of the Northern Mariana Islands will extend "to all rightful subjects of legislation" be broadly interpreted, consistent with Section 102, to mean 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.

It is also the intention of the parties, as reflected in the unanimous view of the members of the Marianas Political Status Commission, that the Northern Mariana Islands Constitution provide for a distribution of the membership of one house of the legislature on the basis of appropriate considerations in addition to population and in particular that the phrase "chartered municipalities of the Northern Mariana Islands" be interpreted to mean the present chartered municipalities of Rota, Saipan and Tinian as constituted at the time of signature of this Covenant and any additional future chartered municipalities that may be added pursuant to the terms of the Constitution of the Northern Mariana Islands.

Section 401. The establishment of a 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. The United States Congress, in its discretion, may also provide 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.

Subsection 402(c). It is the intention of the parties with respect to this Subsection that the Legislature of the Northern Mariana Islands be 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 or reinstate the appellate jurisdiction of the District Court.

Subsection 501(a). This Subsection is intended, among other things, 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, as if the Northern Mariana Islands were a State. As reflected in this Subsection the parties recognize that certain provisions of the Constitution of the United States will apply to the Northern Mariana Islands of their own force by virtue of Article I of this Covenant.

The inclusion or omission of the power to legislate in the specific reference to certain provisions of the Constitution of the United States is not designed to affect the authority of the United States to legislate with respect to the Northern Mariana Islands. That power is governed by Article I.

Subsection 501(b). The provisions of the Covenant referred to in this Subsection constitute integral parts of the mutual compromises and concessions without which the accession of the Northern Mariana Islands to the United States would not have been possible. The inclusion of any of those provisions in this Subsection should not imply that these provisions are in conflict with the Constitution of the United States.

Section 502. The interim formula stated in this Section 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 of the United States will have power subject to Section 105 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 to mean "applicable within" as well as "with respect to" the geographic areas mentioned or the people who reside in or who are citizens of those geographic areas.

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). The reference to the Micronesian Claims Act in Subsection (a) is not intended to preclude the Northern Mariana Islands from seeking such amendments to the Act, or increased appropriations for its implementation, as appear appropriate or desirable.

Subsection 503(a). 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 or by the Government of the Northern Mariana Islands.

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.

Section 506. To the extent that the United States law does not apply, the Northern Mariana Islands has the power over immigration into its territory. An immediate relative of a United States citizen residing in the Northern Mariana Islands may gain admission to the Northern Mariana Islands in accordance with local law without claiming at that time entitlement to immediate relative status under the United States Immigration and Nationality Act.

Section 601. 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.

Subsection 603(b). The 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. However, this Subsection 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 seek appropriate waivers or modifications of its international obligations.

Subsection 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 this Section among the provisions listed in Section 105 which may be modified only by mutual consent. The reason for this omission is that, while Section 702 constitutes a commitment on the part of the United States Government, it is of a transitional nature extending for 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 that Article.

Subsection 704(c). The reference in this Subsection and in Subsection 803(b) to a United States Department of Commerce composite price index is intended to refer to the United States Gross National Product Implicit Price Deflator.

Section 803. It is understood that the Government of the Northern Mariana Islands may exercise its obligations and rights under this Article through a legal entity established to receive and hold public lands in trust for the people of the Northern Mariana Islands.

Section 805. The parties intend that it will be the responsibility of the Government of the Northern Mariana Islands to implement the provisions of this Section. In particular, the parties understand that the Constitution or laws of the Northern Mariana Islands will define the operative terms in this Section, including such terms as "long-term interest in real property", "acquisition" and "persons of Northern Mariana Islands descent".

Subsection 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.

Section 901. This Section is not intended to preclude the Government of the Northern Mariana Islands from requesting the Congress of the United States to confer non-voting delegate status on the Resident Representative provided for in this Section.

Subsection 904(c). The parties note that this Subsection is not intended to preclude the Government of the Northern Mariana Islands from discussing matters of mutual concern with other Pacific island communities.

Section 1001. In accordance with the request of the Marianas District Legislature, the United States intends to administer the Mariana Islands District separately from the remainder of the Trust Territory following approval of the Covenant by the people of the Northern Mariana Islands. In establishing other qualifications for voting in the plebiscite the United States will consult with representatives of the Marianas District Legislature and other local leaders.

Section 1002. The parties note that the United States has stated that it is now planning on a provisional basis to terminate the Trusteeship for all the districts by 1981.