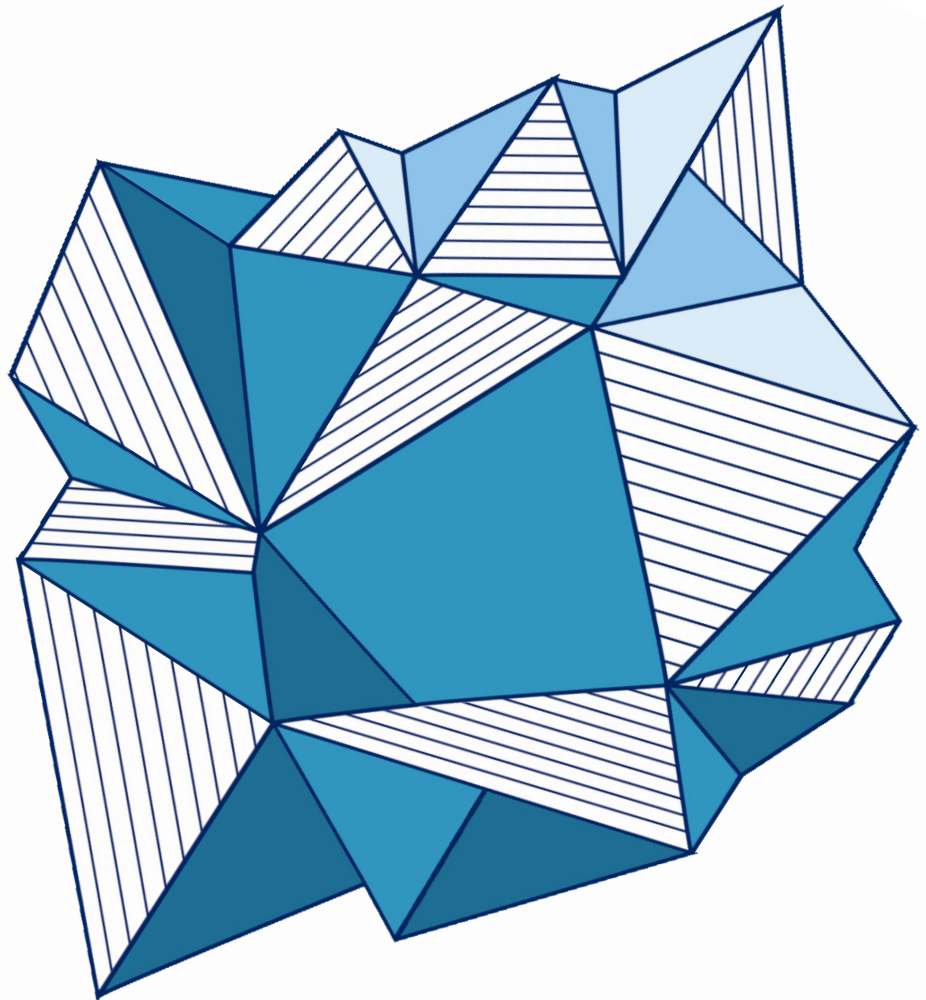


The Greenlandic wish for independence

An investigation of the possibilities within free association

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Master's thesis, 2017



ABSTRACT

The Master's thesis takes its point of departure in the Greenlandic Constitution Commission established in the spring of 2017. Besides formulating two constitutions, the commission was tasked with exploring options for entering into free association. I set out to explore previous use of free association in the United States and New Zealand, how Siumut politicians promoted free association and finally what contentions Denmark may have in a free association arrangement. This investigation focused on the three aspects of citizenship, foreign- and security policy and economy and was carried out on the basis of the United Nations framework on free association in the context of the theory of late sovereignty. Free association agreement was deemed possible, but several contentions exist between Greenland and Denmark to which negotiations would have to clear away.

Abstract

The Master's thesis takes its point of departure in the Greenlandic Constitution Commission established in the spring of 2017. The commission was tasked with formulating two constitutions; one to apply for the Self-Government in the Danish Realm, and one to apply for an independent Greenlandic government. Moreover, the commission was tasked with exploring options for entering into free association.

In my thesis, I set out to investigate whether it is possible to accommodate Greenland's wish for independence if Denmark and Greenland were to venture into a free association relationship. I also sought to investigate which points of contention were likely to arise and how these could be cleared away. This was undertaken by analysing previous use of free association in the United States and its associated states the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau and New Zealand and its associated states the Cook Islands and Niue. Furthermore, I investigated how Siumut politicians employed free association as a concept in relation to independence and what functions they considered to be possible in free association. Lastly, I sought to uncover Danish contentions in a free association arrangement.

These three analyses focused on the three aspects of citizenship, foreign- and security policy and economy, aspects that are rooted in academia and the source material employed in the thesis. Further, the thesis was conducted on the basis of a conceptual framework of free association defined by resolutions in the United Nations along with the theory of late sovereignty. This theory enabled the thesis to view sovereignty as a dynamic concept, wherein the degree of sovereignty for a state may vary depending on who possess the responsibility of the functions' of state, but also as sovereignty being utilized in games where actors from a state can increase or decrease sovereignty depending on motives.

On the basis of the above, the thesis discussed different aspects of free association suitable for a free association agreement between Denmark and Greenland, and other aspects, considered not as suitable, were discussed in regards to how these could be cleared away. The thesis found that Danish citizenship rights could be extended to Greenland, as long as they did not create confusion on the states' responsibilities in international law, that if Greenland are to

gain membership of international organisations there will have to be a clear distinction of the de jure and de facto responsibility of Greenlandic foreign policy and the de jure responsibility would have to reside in Greenland, that Denmark can carry out the Greenlandic responsibility of security, but it would be depending on Danish strategic interests in Greenland, and finally the economic relations could be trimmed down in its current form of a block grant into a trust fund that would supplement Greenland's economy.

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Foreword:

The thesis was examined on the 19th of June, 2017 and received the top grade, 12, corresponding to an A grade. Since examination the thesis has been revised in some areas, primarily regarding smaller corrections with no change in the arguments and understanding of the thesis.

The process, of which this thesis is the product of, took its first steps during my internship at Arctic Consensus in the fall of 2016. Here, Lise-Lotte Terp and the rest of Arctic Consensus introduced me to the exciting world of Greenlandic-Danish relations on a great many areas and fostered my curiosity through daily discussions on Arctic issues to a degree of which I owe them my thanks. It was also here I first came into contact with Ulrik Pram Gad, who, due to the efforts of Lise-Lotte, became my thesis supervisor. I could not have imagined a more capable supervisor on Greenland's relations to Denmark and independence and I am deeply grateful for your supervision and advice on the thesis.

I would also like to extend a heartfelt thank you to my girlfriend, Ditte Melitha Kristensen, for tolerating my eagerness in explaining Arctic issues the last year, something she hopefully can learn to live with, and most importantly for being caring to me during stressful periods. My brother, Martin Underlin Østergaard, also deserves the sincerest gratitude for, willingly, reading my thesis and always providing me with new perspectives and opinions.

Any comments or observations regarding the thesis and its content are more than welcome at:

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Aalborg, 31st of May, 2017

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Chapter 1: Introduction

During the 2015 fall assembly of the Greenlandic parliament, Inatsisartut, the Greenlandic government, Naalakkersuisut, was instructed to draw up a report on the establishment of a Greenlandic constitutional commission (Greenland's Self-Government, 2016, p. 4). This report was released in November 2016 and on this basis Inatsisartut authorised Naalakkersuisut to establish a constitution commission beginning in 2017 (Inatsisartut, white paper, EM 2016/39 p. 8). This formation of a constitution commission is the latest move in increasing Greenlandic autonomy towards Denmark, but it may also serve as the final attempt. The Minister for Independence, Nature, Environment and Agriculture, Suka K. Frederiksen, from the political party Siumut, noted in connection to the establishment of the constitutional commission:

"The dream of independence is a natural development in the maturation process of democracy and identity, which we have experienced since 1953. First, we went from being a colony to being a part of the Danish realm, later we got Home-rule and in 2009 Self-Government. There is a straight line to the next step: Independence. No one can blame us for this, and in this connection the preparation of a proposal for our own constitution is an important step" (Inatsisartut, reply memorandum, EM 2016/39, p. 2, translated by author).

Thus, the next, and most natural, step for Greenland is independence from Denmark, and it is being prepared for with the new constitution commission. But why is independence a natural step, and more importantly, how can it be achieved? The following will attempt to shed some light on these questions, and set the stage for an alternative to full formal sovereignty; free association.¹

The independence of states has been a recurring theme in international politics since the end of the Second World War. The formation of the United Nations at the end of the Second World War initiated a process of decolonization, which led to Denmark listing Greenland as a non-self-governing territory under Chapter XI of the United Nations Charter; Greenland was a de-facto

¹ The concept of free association will be the focus of the assignment, however it is a concept of great complexity and therefore I will focus on this in chapter 4.2

colony (Alfredsson, 2004, p. 50). The decolonisation process demanded these non-self-governing territories to achieve a degree of self-determination on the basis of three choices; integration, independence or free association (Alfredsson, 2004, p. 50). Denmark chose to integrate Greenland into the Kingdom of Denmark in 1953, a choice ratified in the UN in 1954 (Alfredsson, 2004, p. 50) due to three aspects; a rising criticism of colonialism in the UN, a Greenlandic desire for decentralisation and a wish for the United Nations to supervise the Danish colony (Loukacheva, 2007, p. 26). Even though Greenland was integrated, a 'colonial' relationship intensified with the immigration of Danes to Greenland along with a continuation of a neo-colonial economy policy. This ensured that some of the practices from the former colonial relationship remained unchanged (Loukacheva, 2007, p. 26). In Greenland, Denmark initiated a process of industrialisation and extension of social welfare, which required the Greenlandic population to move from smaller settlements to urban districts in order to succeed. These migrations to the urban districts fragmented the kin-based groups established and maintained in the settlements, and led to individuals experiencing alienation, social and economic marginality and discrimination. This fragmentation led to an emerging Inuit political awareness (Loukacheva, 2007, p. 27).

This emerging Inuit political awareness culminated in the 1970s, wherein a bilingual Greenlandic elite, speaking Danish and Greenlandic, disappointed with continuing oppression and broken promises of equality with the Danes, led a movement for home rule in Greenland (Loukacheva, 2007, p. 30). The Danish membership of the European Economic Community (EEC) in 1972, which dragged Greenland into the EEC as well, proved to be a decisive impetus towards autonomy. The provincial council of Greenland requested wider jurisdiction over Greenlandic matters from the Danish government. This request initiated a process that included the formation of a Home Rule Committee and a Greenlandic-Danish Home Rule Commission, which led to the establishment of the Greenland Home Rule Act of 1978. This act came into force in 1979 (Loukacheva, 2007, p. 30).

The Greenlandic system of governance continued to evolve from 1979, which enabled the fulfilment of all legal and political possibilities embedded in the Greenland Home Rule Act of 1978. Thus, a need for reform of Greenland's legal status within the Danish Realm grew (Loukacheva, 2007, p. 31). This need led to the establishment of the Greenland Government of the Commission on Self-Governance in 1999, which released a report in 2003 giving recommendations on expansion of Greenland's autonomy in the Danish Realm. On this basis, in 2004, a Greenlandic-

Danish Self-Governance Commission was charged with developing a plan for increasing Greenland's autonomy (Loukacheva, 2007, p. 31). It should be mentioned that among other things, the commission touched on the concept of free association, but later rejected it on the grounds of the content of the concept residing outside the mandate of the commission (Greenlandic-Danish Self-Government Commission, 2008, p. 588).² This commission published its report in the spring 2008, which included a bill for Greenlandic Self-Government. The bill led to a referendum in Greenland in the fall 2008 that resulted in 75,5 % of the Greenlandic population voting for the establishment of the new Self-Rule. Thus, in the summer of 2009 the Act of Greenland Self-Government was enacted and the Greenlandic Home Rule was replaced with the Greenlandic Self-Government (Nuttall, 2008, p. 65).

The Act of Greenland Self-Government set the scene for Greenlandic sovereignty. Formally, the Greenlandic people will take the decision for Greenland's sovereignty. If this were to happen, the Danish and Greenlandic governments will initiate negotiations for implementing Greenlandic sovereignty. An agreement between the two governments will hereafter have to receive consent from the Danish and Greenlandic parliaments. Finally the decision for sovereignty on the basis of the formulated agreement between Greenland and Denmark will be determined by a referendum in Greenland (Act of Greenland Self-Government, 2009, chapter 8).

Two key changes from the Home Rule Act to the Act of Greenland Self-Government is the Greenlandic government being in position to assume responsibility of 32 political areas currently undertaken by Denmark. When assuming responsibility of these areas, the economic expenditure will also be assumed responsibility of (Act of Greenland Self-Government, 2009, chapter 2). However, it is not required for Greenland to assume responsibility of these 32 areas before a process towards independence may be initiated. The other key change is the annual Danish block grant of 3.44 billion DKK being locked in place. From the onset of the Act of Greenland Self-Government, the grant will decrease over time at a speed determined by the revenues from raw material activities, such as extraction. This is set to be an amount corresponding to 50 % of the earnings after they exceed 75 million DKK (Act of Greenland Self-Government, 2009, chapter 3).

² This notion of free association and its rejection in the Greenlandic-Danish Self-Government Commission's work will be elaborated on in chapter 8.2.

Through this, the block grant will eventually be phased out. The speed of which will depend on the economic success of the raw material activities.

From the above it should be clear that Greenland's progression towards further autonomy has happened within the Danish Realm. In parallel with this progression, the question of possible independence has been going on. This is most recently evident in the newly formed constitutional commission of 2017, a commission co-formed by the long time government party, Siumut. Siumut has both in the public debate as well as in official documents been very adamant on moving towards independence (Siumut Policy Paper, 2015, p. 2) (Coalition Agreement 2016-2018, 2016, p. 1). In here, the notion of free association is associated to independence by Siumut. In 2016, the newly formed government of Greenland, between the parties Siumut, Inuit Adaqatigiit and Partii Naleraq, announced in their coalition agreement that:

“Greenland is irrevocably on its path towards independence and this process demands not only political stability, but also national unity. The parties are in agreement to put forward a proposal for a new constitution at the expiration of this election period” (Coalition Agreement 2016-2018, 2016, p. 2, translated by author).

On the basis of the wish for a new constitution, the government produced a report on the establishment of a Greenlandic constitution commission. This report served as the source material for the approval of the establishment of a Greenland constitution commission on the 21st of November 2016 (Inatsisartut, EM 2016/39). This report noted:

“[...] the draft constitution should contain drafts on provisions, which based on constitutional law allows Greenland to enter into a free association relationship with another state (preferentially Denmark), after, or at the same time, as independence is enacted” (Greenland's Self-Government, 2016, p. 39, translated by author).

As mentioned, in the Self-Government Commission's report, free association was dismissed as a concept to be employed in the establishment of the Greenlandic Self-Government due to the then characteristics of existing free association agreements (Greenlandic-Danish Self-Government Commission, 2008, p. 588). Even though free association was investigated, and then dismissed in the Greenlandic-Danish Self-Government Commission work, the current Greenlandic government

seeks to establish drafts for a new constitution in which the option to enter into free association is available (Greenland's Self-Government, 2016, p. 5). However, no work on a possible model of free-association for Greenland exists.

The fact remains that the roadmap for full formal sovereignty, as laid out in the Act on Greenland Self-Government, does not require the acquisition of the 32 fields of responsibility and the phasing out of the block grant before the process of independence may be commenced. The Greenlandic self-image as being on the path to independence, developed in the relationship to Danish colonizers, as exemplified by the quote of Suka K. Frederiksen, leads Greenland towards conflict with Denmark on some occasions and facilitates cooperation on others. As noted by Ulrik Pram Gad (2016), decisive for cooperation and conflict is the ability and willingness to accept creative ways of engaging sovereignty.³ Denmark is able to extend the expiry date of the Danish Realm by effectively turning it into a vehicle for making itself functionally unnecessary – one of the few ways in which Denmark can demonstrate that it is no longer the imperial oppressor, which it insists that it never really was (Gad, 2016, p. 12).

Instead, as yet another creative way of engaging in sovereignty, a new type of relationship to Denmark, as the Act of Home Rule (1979) and Act on Greenland Self-Government (2009) were, may serve as a tool for increased sovereignty, while continuing to disassemble the Danish Realm in order to stay legitimate. Such a new type of relationship that may manage to extend the expiry date of the Danish Realm before it is functionally unnecessary could be that of a free association agreement. What this concept exactly entails, what the political party Siumut aims to achieve through free association and what contentions Denmark may have in entering into a free association agreement will be the basis for the thesis. Therefore I propose the following problem statement:

Would it be possible to accommodate Greenland's wish for independence if Denmark and Greenland were to venture into a free association agreement? Which points of contention would likely arise between the two in such an arrangement and could these be cleared away?

³ The concept of sovereignty to which the thesis subscribes to will be determined in chapter 4 along with the conceptualization of free association.

Chapter 2: Focus points

In investigating points of contention that may arise between Greenland and Denmark in the possible establishment of a free association agreement, I have chosen to limit the thesis to three focus points. This is a choice made on the basis of academia and what previous research has tended to focus on. These aspects were later found to be underlined by Siumut politicians' wishes for free association. This limitation of focus points also served as a measure of limiting the size of the analysis. I have limited the thesis to the following focus points:

- Citizenship
- Foreign- and security policy
- Economy

The adept reader would have noticed that these in principle consist of four and not three focus points. The reason for foreign- and security policy being listed together is due to the interconnectedness of these two aspects. As will be proven later on, in chapter 6 and 7, these two areas are often intertwined and external in character, as they both are related to how a state may interact with other entities. Therefore, I have chosen to connect these two areas analytically.

The three aspects are all rooted in academia and in different cases, some of which are employed in the thesis. I will not go into detail on the aspects as being rooted in different cases; the analyses will cover such an investigation more than adequately. However, I would make a few mentions of academia in which these aspects are rooted. First of all, Crawford (1989) introduces the three focus points along with an emphasis on maritime jurisdiction and enforcement in the context of islands in general moving towards increased sovereignty (Crawford, 1989, pp. 279-282). Second, Baldacchino & Hepburn (2012) list the three focus points as aspects that a 'benign patron state' may extend to a state in free association, along with mentions of general welfare, employment in a diverse labour market, the appeal of higher education and the potential of tourists (Baldacchino & Hepburn, 2012, pp. 558-561). The three focus points are further underlined by Hill (2004), who sought to investigate the state of Micronesia and the Marshall Islands after their renewal of the Compacts of Free Association, where the provisions of economy and security were set to expire.

Hill further focused on the notion of immigration and the consequences immigration to the 'benign patron state', to use the expression of Baldacchino & Hepburn (Hill, 2004, p. 9).

Several other aspects, than the three, I have chosen are relevant in the discussion of independence and increased self-determination in relation to Greenland and I could have chosen to focus on these instead. An example of such aspects, apart from those listed in the above, could be that of shared values. In the establishment of free association, the aspect of shared values is sometimes included, as a way of ensuring agreement between the two parts. However, this is primarily done in regards to citizenship, and therefore this aspect is included within the focus point of citizenship as will be investigated in chapter 6. Several other aspects are utilized in much the same way; as a sub-category within one of the three focus points, and therefore these are included in the analysis, but they do not retain a focus point of their own.

Chapter 3: Research design

The thesis seeks to answer the question: Would it be possible to accommodate Greenland's wish for independence if Denmark and Greenland were to venture into a free association agreement? Which points of contention would likely arise between the two in such an arrangement and could these be cleared away? In order to answer this, different types of empirical material has been employed in three different analyses on the basis of different methodological approaches. In the following I will present on what grounds the different sections of the thesis were included, what they aimed to achieve and how they were beneficial in answering the problem in question. Methodological approaches regarding the choice and use of material and sources will be covered in chapter 5.

The first part of the thesis sought to establish a historical overview of Greenland's path towards increased autonomy from the end of the Second World War up till today. The aim of this was to establish a context for why it is relevant to investigate the usefulness of free association between Denmark and Greenland, as it is a term that springs from decolonisation processes in the United Nations, and up till today where, most recently, a Greenlandic constitution commission has been established. In this regard it should be noted, that the colonial past, undeniably, has been a

dominant theme in the political processes regarding increased Greenlandic autonomy and will continue to be so (Gad, 2016, p. 12).

This historical overview is followed by a presentation of the thesis' focus points; citizenship, foreign- and security policy and economy. The three focus points are rooted in academic material (Baldacchino 2012, Hills 2004, Crawford 1989), and underlined by notions made in political debate by Siumut. The focus points are included in the thesis in order to narrow down the scope of the thesis, since several other aspects were relevant to free association and Greenlandic independence. Moreover, these three aspects also proved to be reoccurring in the free association agreements. Thus, these three focus points will guide the analysis alone, while other aspects may be mentioned occasionally and some will be left out.

This presentation of focus points leads into a concept definition of how the concept of 'late sovereignty' acts as the overall framework for the thesis along with a definition of free association as a conceptual framework for the analyses. Many different interpretations of sovereignty exist, but the interpretation of late sovereignty is able to argue for the division of responsibilities evident in free association instead of considering sovereignty as an absolute measure. Following late sovereignty was the placement of free association within a general conceptual framework on the basis of United Nations' definitions. The need for such a conceptual framework, as a sort of point of reference, was due to the varying use of free association, not only by the United States and New Zealand in their associated states, but also by Greenlandic politicians. Thus, free association is perceived as a political tool employed to promote certain interests. This could also be said of the United Nations, but their political context was established on the basis for a wish for global decolonisation after the Second World War and unison with the United Nations' members. Therefore it is hard to argue for a single state being favoured. This UN understanding of free association was operationalized based on a set of criteria in order to determine, when a certain relationship is and is not a free association. I undertook the establishment of this conceptual framework in order to determine later on, which aspects should be addressed in the formulation of a free association agreement between Denmark and Greenland.

Next after the concept definitions is the method related to the analysis itself. The method sought to describe the approach to the empirical material, as well as how and why the analysis was

structured the way it was. In the analyses, different types of empirical material are employed on free association; previous research, government assessments, law texts such as constitutions and treaties, and statements made by politicians. An important distinction was made here due to the thesis' employment of material from the Greenlandic-Danish Self-Government Commission, especially from meetings in the workgroup on international and constitutional law. In this, different Danish ministries and experts from academia and law, enlisted by the Greenlandic politicians, produced texts that all, to varying degrees, formed the basis for the understanding of free association in the Report on Self-Government in Greenland. This empirical material is therefore twofold, understood as the ministries representing their respective governments, and the experts from academia and law being biased towards the Greenlandic government. This enabled the texts to be employed in different contexts to different ends.

Thus the sections described in the above serves as the general framework for the thesis. In this, the context of the thesis was set along with the focus points and key concepts to direct the analyses. The method also covered the structure of the analyses. The analyses consist of three different sections; all three based on the focus points. The first section consists of an analysis of how the concept of free association has been utilized in previous scenarios along with an identification of elements in these free associations that are of interest regarding a possible Greenlandic-Danish free association agreement. In this first analysis the relationships between New Zealand and the two associated states Cook Islands and Niue, along with the United States and its three associated states Palau, Marshall Islands and Micronesia are investigated. These were chosen on the basis of their existence in the Greenlandic debate and in the Report on Self-Government in Greenland. Thus, the selected examples of previous free association relationships have all, to varying degrees, been explored before in relation to increased Greenlandic autonomy, however back then free association was investigated in relation to increased self-governance and not possible independence.

The second section of the analysis investigates whether any points of contentions may need amendments due to Greenland wishes for a free association relationship to Denmark. This was conducted in order to determine, which aspects of a free association agreement would be of importance to politicians from the political party Siumut. Thereby, the thesis was able to ascertain what problems may arise from these opinions and not only from previous free association

agreements. This second analysis took its point of departure in the Greenlandic public debate. The material consists of remarks, speeches and comments made on free association in relation to independence by politicians from the political party Siumut. In searching for the material it became evident that Siumut was, by far, the party promoting a free association agreement the most. On the basis of this material, I conducted a close textual analysis to determine what free association was believed to be able to achieve and in this regard, which points on contention that may rise from these wishes.

The third section of the analysis investigates the elements in free association, which may conflict with Danish limitations. This third analysis was based on the material from the Report on Greenlandic Self-Government, the Danish constitution and remarks made by the Danish Prime Minister. The analysis served to identify, which areas may be of contention for Denmark in the establishment of free association. No public debate has occurred in Denmark that has focused on the potential of free association between Denmark and Greenland. Therefore the material from the Greenlandic-Danish Self-Government Commission serves as the foundation for the analysis, as the Danish ministries of Justice and Foreign Affairs commented on it back then. Moreover, the notions made the Prime Minister were made in the context of the Greenlandic Constitution Commission, but aspects relating to free association were discussed. Thereby, the three analyses covers perspectives on free association from the United States, New Zealand, Greenland and Denmark and are therefore able to depict different aspects relevant in the establishment of free association agreement.

Following the three analyses is a section of discussion, wherein I, based on the findings in the three analyses explore the options within a possible free association agreement between Denmark and Greenland. This discussion was divided into the three focus points, as the analyses, and combined the findings in the investigation of the United States and New Zealand free association agreements, along with the investigation of remarks on free association made by Greenlandic politicians from the party Siumut and finally the Danish contentions. These notions were coupled with the framework of late sovereignty in order to explore the games played to in- or decrease the degree of sovereignty in Greenland. The findings were summarised in the conclusion.

Chapter 4: Concept definitions

As the thesis takes its point of departure in the Greenlandic quest for increased self-determination possibly moving towards free association, it would be beneficial to establish a common ground for understandings of key concepts present in the process of increased self-determination for Greenland from Denmark. The following will discuss the fluctuating concept of sovereignty as an overall frame for understanding the movement for increased self-determination, but also place the concept of sovereignty into a theoretical framework, where international relations theories such as realism and internationalism all to varying degrees have sought to define the concept of sovereignty (Gad & Adler-Nissen, 2013, p. 4).

As will be demonstrated, I will place the concept within the theory of post-colonialism, as a form of 'late-sovereignty', a successor to the previous Westphalian system of sovereignty deemed 'high-sovereignty' (Mac Amhlaigh, 2013, p. 48). After this discussion, the concept of free association will be investigated and established within a conceptual space based on the framework laid out by the United Nations. The reason for establishing a conceptual space relates to the overwhelming number of possibilities within the concept of free association. As will be shown, the UN sets out general framework in which different actors are able to interpret in different ways depending on political motives and interests. Therefore, free association may be adapted to suit political needs. In order to differentiate between these adaptations, I chose to let the UN's conceptual framework form the basis for the analyses, in which these adaptations can, possibly, be identified. As a last note, I should mention that it is possible that the UN chose to formulate the concept of free association with different political goals in mind, however as the framework is as broad as it is in scope, it is hard to argue for or identify specific political ambitions. In this regard, the concept will be regarded as being constructionist in nature, with different social actors attributing meaning to the concept. This notion will be explored further in chapter 5.

4.1 Sovereignty:

As the concept of free association determines the degree of sovereignty for a state in relation to other states, especially the state to which it is associated, it is necessary to establish a framework to which sovereignty is to be understood in. As noted previously, the concept of sovereignty is

subject to several different definitions, depending on the perspective of political theory, where an internationalist perspective would argue for sovereignty having disappeared as all states are interconnected and without real sovereignty, whereas a realist would argue for all states possessing sovereignty and being in a state of struggle to maintain and either protect or expand this sovereignty, depending on the focus being on defensive or offensive realism (Nye, 2008, pp. 94-95) (Griffiths, 2011, p.113). However, I will not attempt to place sovereignty within in its entire theoretical framework, instead I will argue for and employ a specific strand of sovereignty.

In the thesis, I will primarily distinguish between two types of sovereignty, 'high' and 'late' sovereignty. This is done on the basis of Cormac Mac Amhlaigh investigation on the continuity and change of the concept sovereignty within the context of European integration. High sovereignty constitutes the sovereignty games played since the heyday of sovereignty in the Westphalian system of sovereign states, dating back to 1648 (Grovoqui, 2013, p. 30), dubbed 'high' due to it being rooted in the high middle ages (Mac Amhlaigh, 2013, p. 40), to its current form dubbed 'late' sovereignty by Neil Walker, the advent of which came during the post-war experience of European integration (Mac Amhlaigh, 2013, p. 48). It should be noted that Mac Amhlaigh utilizes Walker's "[...] comprehensive account of an evolved sovereignty in the European context" (Mac Amhlaigh, 2013, p. 42).

Interestingly for the thesis, Mac Amhlaigh goes beyond Walker, and argues that this concept of late sovereignty is viable in the trilateral relationship between Overseas Countries and Territories (OCTs) of EU member states, their respective monopolies and the EU (Mac Amhlaigh, 2013, p. 47). This use of late sovereignty was utilized in Gad (2016) to explore the trilateral relationship between Greenland, Denmark and the EU. In the following, I will present the key notions of Cormac Mac Amhlaigh's theory of late sovereignty and its relevance in the context of Greenland and Denmark.

Mac Amhlaigh argues, that the experience of European integration after the Second World War constitutes a transition from high sovereignty to late sovereignty (Mac Amhlaigh, 2013, p. 48). In this transition, the claim for full authority has moved from high sovereignty games focused on authority over territory and people, to late sovereignty games focused on authority over

functions. This entails that autonomy does not imply territorial exclusivity in late sovereignty (Mac Amhlaigh, 2013, p. 43).

This late form of sovereignty cannot be reduced to a rigid set of characteristics as a measure for determining whether or not an entity qualifies for sovereign statehood or not, as is the case with high sovereignty. This approach would entail that sovereignty corresponds to an objective reality, which can be applied universally (Mac Amhlaigh, 2013, p. 41). Instead, the concept of late sovereignty is to be understood as a normative discourse that is contingent on its own use and in this use, the rules that govern its usage in discursive practice (Mac Amhlaigh, 2013, p. 41). These rules entail both constitutive and regulative rules. The constitutive rules dictate who the participants in the normative discourse are and enable observers to understand that a particular game is being played (Mac Amhlaigh, 2013, p. 41). The regulative rules dictate how the particular game is being played and establish criteria to evaluate the performance of the participants; whether their practice of the game is 'good' or 'plausible' (Mac Amhlaigh, 2013, p. 41).

These constitutive rules in late sovereignty can be said to relate to an "[...] institutional plausible claim (X) to ultimate authority over a specific functional domain (Y) in the context of a multilevel political discourse (C)" (Mac Amhlaigh, 2013, p. 43). On the other hand, the regulative rules have evolved from being focused on justifications of absolute monarchy and imperial conquest to focusing on claims of nationhood, popular sovereignty and the right to self-determination (Mac Amhlaigh, 2013, p. 43).

The key aspect of late sovereignty in regards to the thesis is that OCTs, such as Greenland, are reluctant in employing high sovereignty. In playing high sovereignty games, the OCT would ultimately claim full authority over a particular area and people based on regulative rules such as the right to self-determination. Such high sovereignty claims would inevitably result in independence, which again would result in the severance of ties to the former metropole (Mac Amhlaigh, 2013, p. 47). This path toward independence may not be the one most beneficial to the OCT (Gad, 2016, p. 127). However, late sovereignty claims do not imply statehood or autonomy for a state, instead the claims can be utilized, or played, in ways that do not imply or lead to statehood (Mac Amhlaigh, 2013, p. 48). These late sovereignty games, wherein no claims of ultimate authority are made, but claims regarding particular functions are made, can lead to a

state acquiring functional autonomy instead of claiming territorial exclusivity (Mac Amhlaigh, 2013, p. 47).

Since several functions exist in operating a state, the possibility for degrees of sovereignty for a single state emerges in late sovereignty as contrasted to high sovereignty, where a territory or a people only could belong to a single state at a time. The above enables sovereignty to be understood as a concept that, instead of existing as a static either/or notion, it can be utilized as a dynamic tool that may be a number of things in between integration and independence, depending on the number of claims made regarding particular functions. The number of functions acquired translates into the degree of sovereignty, where a high number of functions translate into a high amount of sovereignty and vice versa. I would argue, as proven by Gad (2016), that this type of sovereignty game can be applied to the case between Greenland and Denmark, wherein games are played with the scope of obtaining or limiting the degree of sovereignty, depending on the participant playing the game. In the thesis, these particular games are carried out by Greenlandic politicians in chapter 7, and to some degree by the Danish Prime Minister in chapter 8, and revolve around which functions are expendable in acquiring a higher degree of sovereignty in moving toward Greenlandic wishes for independence. From here on, late sovereignty will be synonymous with sovereignty unless it is explicitly noted to mean something else.

4.2 Free association:

In order to move forward in addressing the possible establishment of a free association relationship between Greenland and Denmark, it is necessary to delimit a space of relations that is opened up by the use of free association, as it is a concept with theoretically endless possibilities within the two ends, independence and integration. Some political arm wrestling has taken place in regards to the definition of free association. This was the case in the Greenlandic-Danish Self-Government Commission between Danish and Greenlandic lawyers, but also in between New Zealand and the United States and their associated states. However, this aspect of free association will be scrutinized in chapter 6 and 8. For now I will establish a conceptual space on the basis of late sovereignty to serve as a definition of free association by utilizing the notions of free association established in the United Nations' resolutions formulated during the decolonization process.

4.2.1 United Nations definition:

Resolution 1541 of 1960, listed in the below, will be available in their entirety on aspects relating to free association. Resolution 567 of 1952 will be available in its entirety on aspects relating to free association as Appendix 1. In the following, I will only be commenting on excerpts I found relevant for the thesis. The United Nations' resolution 1541 of 1960, especially principle VI and principle VII, serves as the primary document in defining free association. In here the following is declared:

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

- (a) Emergence as a sovereign independent State;
- (b) Free association with an independent State; or
- (c) Integration with an independent State.

Principle VII

- (a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.
- (b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

The above resolution sets out general principles for the establishment of free association. Most relevant to the thesis are the two aspects of voluntariness and the formulation of a constitution.

In the resolution, the choice of entering into free association should be voluntary and taken by the people of the territory on the basis of democratic processes. Moreover, the associated state should be able to formulate its own constitution, in accordance with the expressed wishes of the people and without any outside interference, unless this interference is agreed upon by the associated and independent state. Therefore, the step towards establishing free association has to be taken by the previous colony and by the colonial overlord. This process also enables the previous colony to formulate its own constitution, independent of the colonial overlord's constitution.

Previous to the above resolution 1541 of 1960, resolution 567 of 1952 sought to identify "Factors which should be taken into account in deciding whether a territory is or is not at territory whose people were "[...] yet to attain a full measure of self-government" (UN resolution 567, 1952, Appendix 1). This resolution listed twelve factors that would be indicative of free association. Therefore, these factors should not be considered as specific requirements to a free association. This also underlines the notable size of the conceptual space that is free association; several provisions are mentioned as being able to constitute free association, but not all of these have to be incorporated into a free association agreement. I consider four of these twelve factors to be especially relevant in relation to the focus points of the thesis and therefore I will present these in defining free association, however the other factors are available in Appendix 1.

The first of these four covers the political advancement. In here it is declared that:

"Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge" (UN resolution 567 of 1952, A1, Appendix 1).

The key aspect in this factor is that of "due knowledge". Such an aspect would require the Greenlandic population to be aware of what a free association would entail in detail. Exactly this point is relevant in the context of the newly established constitution commission, wherein it is sought to establish a constitution enabling free association. If the move towards independence is followed as laid out in the Act on Greenlandic Self-Government (2009), where a free association agreement would require independence, then a referendum would be the final step to confirm this change in relations. Thus, the United Nations recommends a political advancement of the

population. Exact details such as what the degree 'sufficient' entails and how this political advancement is to come about is uncertain, but it should be carried out nonetheless. This is especially relevant as I would argue that the concept of free association is not a dominant factor, and therefore somewhat unknown, in the debates on Greenlandic independence. This argument will be unfolded in chapter 7.

The second factor covers constitutional considerations, and declares that:

“Association (a) by virtue of the constitution of the metropolitan country or (b) by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are constitutional fields reserved to the territory, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the State (UN resolution 567 of 1952, A5, Appendix 1)

This factor also ties into the established Greenlandic Constitution Commission. It is especially relevant in terms of whether or not the constitutional guarantees extend equally to the associated state or whether only some aspects extend to the associated state. This could enable Greenlandic citizens to maintain Danish citizenship, as per the constitution of the Danish Realm, to which the benefits of education, health etc. would be included. As will be uncovered later on in the chapter 8, this parameter was and still is of some concern in regards to Danish responsibilities in international law. For now, it should be noted that the UN seeks to establish clear boundaries of when and on which areas the associated state may or may not receive constitutional guarantees.

The third factor revolves around citizenship:

“Citizenship without discrimination on the same basis as other inhabitants” (Resolution 567 of 1952, B2, Appendix 1).

In relation to the second factor this is somewhat contradiction, as the second factor sought to establish clear boundaries for the extension of constitutional guarantees, wherein citizenship could be one such guarantee. However, it should be kept in mind that these factors laid out by the UN were all indicative of free association and as such these would not necessarily have to be followed. However, it is of interest that the UN chooses to emphasize citizenship alone as a

constitutional guarantee that should be extended to the associated state. I would argue that this would be due to the stabilizing effect for the associated state of having access to previously guaranteed rights such as healthcare and education.

The fourth factor covers internal legislation:

“Complete legislative autonomy of the territory, by means of electoral and representative systems, in all matters which in accordance with the normal terms of association are in the case of non-unitary systems, not reserved to the central government” (Resolution 567 of 1952, C4, Appendix 1).

The fourth and final factor I have chosen to exemplify from the UN charter revolves around the legislative autonomy of the territory. Offhand, this is not controversial, but as the nature of free association revolves around the delegation of a former colony's areas of responsibility to the previous overlord, there may be some aspects wherein the legislation of the associated state could be overruled by the previous colonizer. Therefore, the complete legislative autonomy of the associated state will be obscured by these laws not necessarily being abided to in all matters. Exactly this instance will be a matter of investigation in chapter 6.

In summary, free association is a measure to which a former colony, a Non-Self-Governing Territory, can reach a full measure of self-government. This includes characteristics such as:

- a voluntary choice to enter into the agreement on the basis of democratic processes in respect of the individuality and cultural characteristics of the territory and its peoples,
- the ability to modify the status of the territory through democratic means and on the basis of the freedom of the peoples,
- the peoples' right to determine their internal constitution without interference,
- political advancement of the peoples,
- clearly defined boundaries of constitutional guarantees from the metropolitan country,
- citizenship without discrimination,
- and finally, complete legislative autonomy of the territory.

From here on the thesis will be based on this definition of free association; an agreement that enables a full measure of self-government to a former colony from the metropolitan country, with wide boundaries in regards to the exact content of the agreement.

Chapter 5: Method

The thesis revolves around the epistemological stance of interpretivism. This is due to interpretivism being able to grasp the subjective meaning of social actions in contrary to the epistemological stance of positivism. Central to the understanding of interpretivism is the fact, that it enables the researcher to have a clear distinction between different social actors (Bryman, 2012, p. 28). This enables the thesis to differentiate between different social actors' interpretations of sovereignty and free association and is well suited within the notion of late sovereignty, where games are played to increase or decrease sovereignty. Interpretivism assumes a position wherein people are viewed as complex, individual actors that differ from one another. The reading of the analysis material is based on an understanding of the world being socially constructed and therefore it is imperative to interpret how individual actors experience and articulate their reality.

The ontological stance of the thesis is closely connected to the epistemological stance of interpretivism. Just as interpretivism considers the world to be a social construction, so does the ontological stance constructionism. In constructionism social phenomena and interaction is in a constant state of revision (Bryman, 2012, p. 33). Importantly, this also includes me as a researcher, wherein the findings in the thesis itself are constructions of the social world. Therefore, I will inevitably produce a specific version of social reality on the basis of my point of view, rather than a version that can be regarded as definitive (Bryman, 2012, p. 33). Moreover, constructionism suggests that the categories people employ in helping them to understand the natural and social world are in fact social products; the meaning of categories are created during interaction. These categories will therefore vary in time and place depending on the social interaction giving the categories meaning; such an example could be language (Bryman, 2012, p. 34). This is especially relevant to the thesis focus on independence and degrees of sovereignty, as these categories will be constructed in social interaction, especially in regards to chapter 7. Constructionism therefore

dictates that independence and sovereignty will vary in meaning depending on the social interaction.

Related to both interpretivism and constructionism is the approach of qualitative research. Overall qualitative research emphasizes words rather than the quantification of data and is closely connected to the epistemological stance of interpretivism and the ontological stance of constructionism. Some preoccupations of this approach are relevant to the author of any qualitative research including myself (Bryman, 2012, p. 399). The first of these preoccupations is that of being able to see through the eyes of those being studied. The underlying premise for the qualitative research is that people and their social world differ from subjects in the natural sciences such as atoms, chemicals, metals etc. These subjects of social sciences are able to attribute meaning to events and their environment, unlike those of natural sciences, and therefore must the social world be interpreted from the perspective of the people being studied, as they are capable of their own reflections on the social world (Bryman, 2012, p. 399).

The second preoccupation is the description and the emphasis on context. These descriptions are concerned with explanation of the material and context, but also to explain the behaviour of the subjects being investigated. As a result of this emphasis on description, qualitative research is often full of information about the social world being examined (Bryman, 2012, p. 401). The third preoccupation covers that of emphasis on process. In this perspective the concern is to show how events and patterns unfold over time. As a result, the qualitative evidence will convey a strong sense of change and flux, where the process itself is able to portray events, actions and activities unfolding over time in a specific context (Bryman, 2012, p. 402).

The fourth and final preoccupation is concerned with flexibility and limited structure. This preoccupation is closely connected to that of seeing through the eyes of the subject. If a structured method of data collection is employed, then certain decisions must have been made about what can expected to be discovered about the social reality. Therefore, the researcher is limited in the degree to which the worldview of those being studied can be adopted (Bryman, 2012, p. 403). Instead, an unstructured approach is sought employed, wherein the opportunity of revealing perspectives of the subject in the study is increased. This unstructured approach to

enquiry also offers the prospect of flexibility, which enables the researcher to change course in the research as the data is being collected (Bryman, 2012, p. 404).

Just as there are strong arguments for engaging in quality research, there are also strong arguments of critique of qualitative research. In the following, I will in short cover four main arguments of critique on qualitative research that are worth to keep in mind. These four consists of qualitative research being too subjective, difficulties in replication of results, problems of generalization and a lack of transparency. Qualitative research being too subjective often stems from qualitative research's reliance on the researcher's somewhat unsystematic views on what is significant and important. Exactly because the research is relatively open-ended and entails a gradual narrowing down of problems, the reader of the research may have a hard time realizing why some areas were focused on instead of others, if this is not addressed in the research (Bryman, 2012, p. 405).

Having difficulties in replicating the results of qualitative studies is considered hard due to qualitative research often being reliant on the researcher's ingenuity. What the researcher decides to concentrate upon can very much a product of personal interest. This interest may arise due to the researchers' opinion on what is significant and interpretation will always be influenced by subjective leanings of the researcher (Bryman, 2012, p. 405). The problems relating to generalization are often based on a too restrictive scope of the analysis. Therefore, it is the quality of the theoretical interpretations that are made out of qualitative data, which is crucial to the assessment of generalization. However, it is often possible to establish *moderatum* generalizations, wherein aspects of the focus of enquiry can be seen to be instances of a broader set of recognizable features (Bryman, 2012, p. 406). The last critique on qualitative research revolves around the lack of transparency in the study. It is sometimes difficult to establish what the researcher actually did and how conclusions were drawn in qualitative research. However, this lack of transparency can be countered within the study's research design (Bryman, 2012, p. 406).

5.1 Selection of sources:

The material for the three different analyses was compiled on different grounds and in different contexts. The first collection of material took place by contacting the Danish Prime Minister's Office to gain access to material on the Greenlandic-Danish Self-Government Commission. This

communication led to a search in the archives of the Prime Minister's Office, wherein different source material was handed over. The search was limited to folders regarding the workgroup on international and constitutional law as well as search for the key word 'free association'. I took no personal part in this search, and I am therefore in no position to guarantee that all material was handed over, however this was the statement made by the Prime Minister's Office. The only reason not to trust this statement would be if any material was considered to be too sensitive to the public's eye, but I have no reason to believe this was the case. This material was both utilized in the first analysis on New Zealand and the United States' experience with free association, as well as in the third analysis regarding Danish contentions on free association.

The second collection of material was related to the material needed for the second analysis on Greenlandic contentions on free association. This material was collected through Infomedia searches from the period 1st of January 1945 to the 1st of April 2017. It should be noted, that almost no material was available before 2002, presumably due to it not being available online. Whether any material on free association exists in physical format is likely, but no search was made for this. The Infomedia search was based on the following key words: 'Free association Greenland', "Free association Grønland", "Fri associering Grønland", "Free association Inatsisartut", "Free association Rigsfællesskab", "Free association independence" and "Free association selvstændighed". Notably, the key word searches was both in Danish and English and therefore also produced both Danish and English texts, where the Danish texts are subject to translation in the analyses. Moreover, no key word searches and texts were acquired in Greenlandic due to a lack of Greenlandic language proficiencies. The material available on Greenlandic is of an unknown quantity. In relation this search in Infomedia, a search for material was made in the online database of Folketinget and Inatsisartut. In here the same parameters of time and use of key words was employed. After the collection, the material was subject to readings with a focus on identifying relevant passages to the thesis' three focus points. Depending on the relevance to these, the material was either included or excluded. In total, 13 sources were included in the analysis. Implicitly, some material was left out of the analysis due to a low number of notions regarding free association or the notions and arguments being reused. This reuse could support an argumentation of the how important each notion was, but as the analysis sought to identify contentions in free association, this was more of a secondary concern.

The material in both the first and second collection of material was subject to a key limitation; that of key word search on free association. This is a crucial factor as some material may have contained information on free association, but for whatever reasons free association was not specifically mentioned within the material. Thus, such material may have been left out unintentionally in the search. However, I suspect that material relating to free association without free association being mentioned in the text is of limited presence. It should be noted though, that, as evident from the United Nations conceptual framework on free association, free association can take a variety of different forms and therefore these may not necessarily always be referred to as free association specifically. Material on such types treaties or agreements within the free association framework, but not titled free association, would also be left out of the search.

The point of view for the thesis was that a lot of communication on independence was present, especially in regards at which pace this independence should be achieved. However, it was striking how little communication there was about a possible free association agreement. The sources I have gathered are those that specifically mention free association. Since these trends of independence are taking place, I am well aware of the possible existence of more discreet, or hidden, trends about free association and the design of such an agreement. However, these trends of free association are conspicuous by their absence in official and semi-official sources.

If these hidden trends were to be investigated, it would be necessary to analyse the rhetoric on independence in Greenland. This would be were discreet remarks on free association would be available for analysis. One would have to investigate the communication on independence and on this basis, along with the knowledge of what free association could entail, draw a conclusion on what actually is being thought of free association.

5.2 Presentation and critique of material:

In the following analyses, several texts from academia on free association by different researchers have been employed to contextualize the findings in the source material. As mentioned in the above, the thesis employs material from the workgroup on constitutional and international law as well as sources of different Siumut politicians' notions on free association. On the basis of these I am investigating conceptions on what free association does, what it is and is not and what it can

and cannot do. The aim for this investigation was to explore the possibility of establishing a free association agreement between Greenland and Denmark, and how this agreement could accommodate all parties. The analysis will be a close textual reading of the material in order to compare how the concept is used and what ideas and beliefs are connected to the concept.

5.2.1 Academia

Alison Quentin-Baxter's work "The New Zealand Model of Free Association: What Does it Mean for New Zealand (2008) aimed to investigate New Zealand's free association relationship with the associated states Niue and Cook Islands in order to establish a basis for self-government in the island Tokelau that is a part of the Realm of New Zealand. The focus in the text is on both legal and practical obligations that free association place on both parties, with a more intense focus on New Zealand (Quentin-Baxter, 2008, p. 608). The paper itself is based on the work of Tony Angelo as a constitutional advisor for both the Government of Niue and people of Tokelau. Quentin-Baxter's own interest in constitutional law lead her to a role in advising the people of small islands on making constitutions for self-government (Quentin-Baxter, 2008, p. 609).

Andrew Townend's paper "The Strange Death of the Realm of New Zealand: The Implications of a New Zealand Republic for the Cook Islands and Niue" (2003) sprung from a speech held by New Zealand's, then, Prime Minister, the Right Honourable Helen Clark. She remarked that New Zealand will inevitable become a republic, which would result in the Queen of England ceasing to be Head of State. On this basis, Townend sought to investigate the consequences this would have for the Realm of New Zealand and its macro-constitutional arrangement with its associated states, Niue and the Cook Islands, and its dependent territories, Tokelau and the Ross Dependency (Townend, 2003, p. 572). The paper placed itself in a debate, where the focus had been on New Zealand alone, and not on the Realm of New Zealand, and through this sought to fill the gap in the public debate. The paper asked, what would the Cook Islands and Niue's options be if New Zealand would become a republic (Townend, 2003, p. 574).

Chiméne I. Keitner and W. Michael Reisman's paper "Free Association: The United States Experience" (2003) takes its point of departure in the on-going reconfiguration of the international political system at the turn of the twenty-first century and points to the need for a range of self-determination options for peoples around the globe (Keitner & Reisman, 2003, p. 2). The paper

serves as follow up on Reisman's previous study from 1975, "Puerto Rico and the International Process: New Roles in Association". This article brings that study up to date and expands on the discussion of the US experience beyond Puerto Rico. Instead the paper now includes the former Trust Territory of the Pacific Islands, which the now freely associated states Micronesia, the Marshall Islands and Palau were a part of (Keitner & Reisman, 2003, p. 2). The goal of the paper is to establish an overview over the US associations, to which free association is a part of, by documenting the historical and political background, indicating what free association is and how it has been implemented in regards to strengths and weaknesses, and indicating concepts and principles applicable worldwide (Keitner & Reisman, 2003, p. 2).

John Henderson's paper "The Politics of Association: A Comparative Analysis of New Zealand and United States Approaches to Free Association with Pacific Island States (2002) compares and contrasts the workings of the free association relationship New Zealand has with the Cook Islands and Niue, and the United States with Micronesia and the Marshall Islands. The paper seeks to explore how these relationships have worked in practice (Henderson, 2002, p. 77). The historical context for the paper was the on-going negotiations between the United States and its two associated states, Micronesia and the Marshall Islands taking place on the basis of a further fifteen-year term. Notably, the paper leaves out Palau, because their Compact of Free Association was not up for re-negotiation in 2002. Moreover, at the time a New Zealand and Niue joint consultative group was reassessing the nature of the two countries' relationship and the Cook Islands and New Zealand had recently agreed on a new declaration (Henderson, 2002, p. 78). The comparison is made on the basis of claims that New Zealand's cases of free association served as inspiration for the United States' cases of free association. However the article sought to demonstrate that the United States' arrangements of free association had evolved entirely different.

5.2.2 Workgroup on constitutional and international law:

The material acquired from the Danish Prime Minister's Office on meetings and papers discussed in the workgroup on constitutional and international law can be split into three groups; the meetings held, texts produced by an adviser to the Greenlandic chairman of the workgroup and texts produced by the Danish Ministry of Justice and Ministry of Foreign Affairs. The summaries of

the meetings have not being included in the thesis. The texts produced by the adviser to the Greenlandic chairman and the texts produced by the Danish Ministry of Justice and Ministry of Foreign Affairs differ in how these have been handled in the analysis.

The adviser, Mininnguaq Kleist, employed by the Greenlandic chairman of the workgroup, Lars-Emil Johansen, produced material on the concept of free association in international and constitutional law and gave his assessment to whether or not a free association agreement would be viable between Greenland and Denmark. Kleist argued, that free association could serve as the foundation between Greenland and Denmark, and that free association would enable the choice of full sovereignty (Kleist, 2005, p. 6). Moreover, Kleist also produced material on the relations between New Zealand and its associated states the Cook Islands and Niue. It is important to note that even though Kleist was recognized in his field of expertise⁴, at the time he was paid by the Greenlandic chairman in advising on free association, and very possible pushing arguments and interpretations that favoured Greenlandic wishes. This is most evident in a summary from a meeting in the workgroup, where the chairman introduced visions for the workgroup, one of which was the establishment of a free association agreement between Greenland and Denmark (Workgroup, 2006, p. 2). Kleist's remarks cannot be considered entirely as the opinions of the Greenlandic chairman of the workgroup, but his remarks must have been in agreement with the chairman.

In opposition to Kleist was the material produced by the Danish Ministries on Justice and Foreign Affairs. These documents included in thesis were produced on requests from the workgroup regarding the need for accounts on free association and what this concept entailed. The key notion in these accounts was a concern regarding the haziness between the states in the free association agreement, especially in regards to the areas of responsibility and the ability to uphold responsibilities in international law (Foreign Ministry, 2005, p. 4). This concern is primarily one that is relevant to the state carrying out tasks for the other state in free association. This is relevant due to Denmark assuming this position if a free association agreement would be established between Greenland and Denmark. This also underlines the position and motivation of

⁴ Kleist had previously co-authored a chapter in the book "The Right to National Self-Determination: The Faroe Islands and Greenland" (2004) edited by Sjúrdur Skaale, current MP of Folketinget, along with Gudmundur Alfredsson, professor on Polar Law.

the Danish ministries; they are paid by the Danish Government, seek to promote its interests in all aspects and in the thesis I will therefore consider all of their remarks to be as a representative for the Danish Government. Furthermore, the accounts of the ministries also revolved around the United States and New Zealand's associated states and how these should be considered. The clear take away from the material provided by the Prime Minister's Office is the bias Kleist and the Danish ministries have towards Greenland and Denmark. I am aware of this bias, which has me to employ the material as sources that are able to explore the Danish and Greenlandic perspectives on free association.

5.2.3 Sources on Siumut politicians:

Finally, material on remarks made by Siumut politicians has been employed in the analyses as well. I previously mentioned how this material was collected; however I have not described the character of it in the analysis. The initial aim was to identify remarks made by a wider selection of Greenlandic political parties, however I was unable to identify any remarks on free association except for a single comment by the former chairman of the political party Inuit Ataqatigiit (IA), Kuupik Kleist, from 2011, who also held a spot in the Greenlandic-Danish Self-Governance Commission from 2004 and onward. The selection of material may seem somewhat one-sided, as Siumut is the only party being represented. I attempted, unsuccessfully, to acquire material from other parties, however in this I was unsuccessful. Therefore, I am able to describe how free association is viewed from the perspective of the party Siumut and not Greenlandic political parties in general. The degree to which this condition impacts the analysis is negated by the prominent position Siumut has retained in Greenlandic politics since their emergence in 1977, after which they held the position of the governing party in Greenland until 2009, and unbroken stretch of 32 years.

Chapter 6: Analysis on previous use of free association

In order to determine whether any points of contention may occur between Denmark and Greenland in the establishment of a free association relationship, it would be beneficial to investigate what previous arrangements between other governments, also addressed as free association, included and/or excluded in their arrangement of free association. Thus, the following

will present cases of free association between two principals, New Zealand and the United States of America, and their associates, Cook Islands and Niue being associated to New Zealand as well as the Marshall Islands, Micronesia and Palau being associated to the United States of America. Both sections will contain short and basic overviews of when and how the associates entered into free association along with a description of key documents and their content that relates to the three focus points of the thesis. Since the thesis is more concerning with what the agreements consists of rather than producing its own analysis, the sections following sections on free association agreements will be relying, as previously mentioned, on the work of Alison Quentin-Baxter and Andrew Townend in the case of New Zealand, Chiméne I. Keitner and Michael Reisman in the case of the United States of America, and lastly the work of John Henderson as a comparative perspective on both countries' free association arrangements.

6.1 New Zealand in free association

The following overview will focus on New Zealand and its two associated states; the Cook Islands and Niue. The overview will, to a large extend, be based on material from the New Zealand Ministry of Foreign Affairs and Trade, which was tabled in 2007. As a consequence, the following overview could be exposed to a sort of self-presentational narrative, wherein history could have been tempered with in such a way that the actions of the New Zealand government would appear better in the eyes of the reader of 2007. However, several other narratives on the history of the Cook Islands such as Quentin-Baxter (2008), Townend (2003) and Henderson (2002) all support the claims made by the New Zealand government. These three scholars will all be employed in the coming section along with legal texts such as the Constitutions of the Cook Islands and Niue, along with two financial reports from 2015 that serve as programme evaluations on the Cook Islands and Niue, both published by the New Zealand Ministry of Foreign Affairs and Trade.

6.1.1 Historical overview

Both Niue and the Cooks Islands have followed much of the same path towards free association with New Zealand, and many of the provisions within both agreements are similar to one another as will be clear in the following. The pacific island, Niue, was first settled around the 10th century, whereas the Cook Islands were settled later in the 13th century, both by people from nearby islands. It took until 1773 and 1774, for the first European, Captain James Cook, to “re-discover”

the Pacific islands. A continued European contact with the islands was followed with the introduction of Christianity (NZMFAT Cook Islands and Niue, 2007, p. 1).

Much as the discovery of the islands follow the same timeframe, so did much of the process toward free association. From 1888 and into the early 1890's, the traditional leaders of the Cook Islands, the ariki, petitioned for the establishment of a protectorate over the islands. Meanwhile, on Niue it was the elected kings, instead of the traditional ariki, who initiated petitions for the establishment of a protectorate in the 1890's. Both requests were accepted and by 1901, the Cook Islands and Niue were administered by New Zealand. However, from here the history differs somewhat, as Niue protested over being integrated into the same administrative unit as the Cook Islands, which led to Niue being administered separately from 1903 (NZMFAT Cook Islands and Niue, 2007, p. 1).

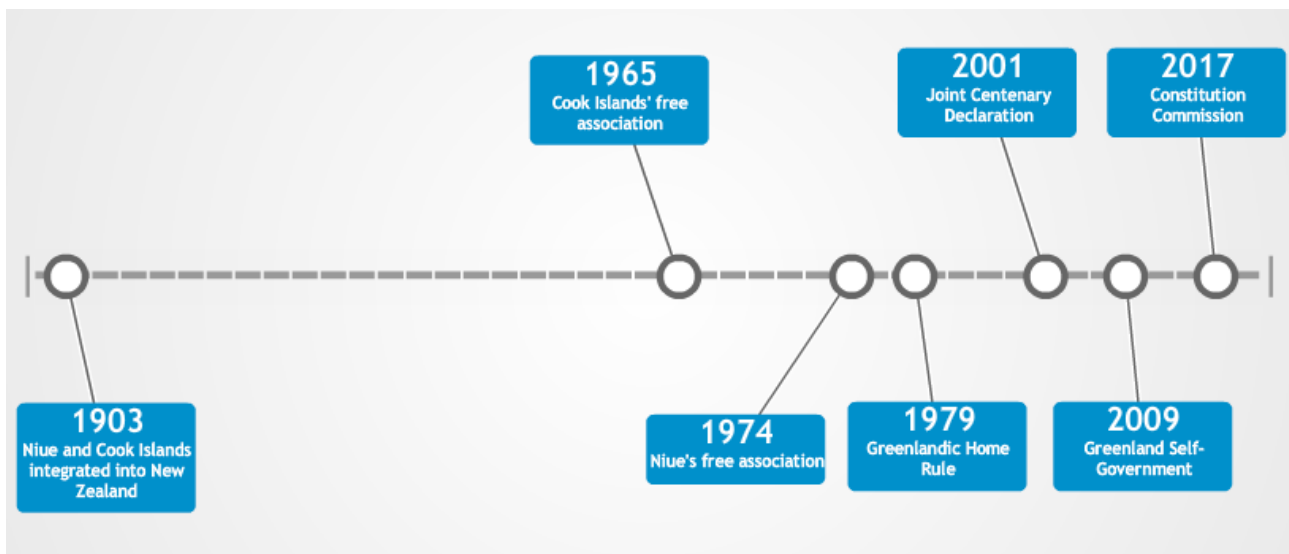
A growing anti-colonial sentiment in the United Nations paved the way for a change in the type for governance of the Cook Islands, which were given the choice of three options: independence, self-government in free association with New Zealand, and integration into New Zealand.⁵ The Cook Islands chose self-government in free association with New Zealand in 1965 (Henderson, 2002, p. 79). Niue was initially reluctant to the prospect of following the Cook Islands' example, as Niue was smaller in both size and economy to the Cook Islands, which increased the need for financial and administrative support from New Zealand (Henderson, 2002, p. 79). Niue agreed to self-government in 1974 on the basis of New Zealand agreeing to provide 'necessary economic and administrative assistance to Niue' as per the Niue Constitution Act (Niue Constitution Act, 1974, section 7).

Further, in 1973, the Prime Minister of New Zealand, Norman Kirk, and the Premier of the Cook Islands, Henry Albert, exchanged letters in which they clarified aspects of the relationship of free association. This exchange emphasized that there were no legal shackles on the freedom of the Cook Islands, and that the free association was voluntary, a partnership turning on the wish of Cook Islanders to remain New Zealand citizens. This came with the expectation of the Cook Islands to uphold laws and policies to be of a standard of values generally acceptable to New Zealanders

⁵ Actually a fourth choice existed of becoming a part of a Polynesian federation, however the federation did not exist at the time, which made the choice unviable (Henderson, 2002, p. 79).

as well as to (Cook Islands Government, 1998, pp. 51-54).⁶ After 1974 New Zealand no longer had the power nor the desire to make laws for either the Cook Islands or Niue (Henderson, 2002, p. 80) and notably all assistance to the two now self-governing states would be provided through aid policies and procedures from the Ministry of Foreign Affairs and Trade (Quentin-Baxter, 2008, p. 615).

In 2001, to mark the centenary of formal relations between the Cook Islands and New Zealand, a new statement was signed by the Prime Ministers, which served as an update to the exchange of letters between Norman Kirk and Albert Henry in 1973. The statement further took into account the developments in the relationship between the two countries, and fundamental principles of the two governments to consult closely as partners on foreign affair matters and other issues of shared interest remained (NZMFAT Cook Islands, 2007, p. 2). The following shows the most important events of New Zealand's associated states in comparison to Greenland:



6.1.2 Key aspects of focus points

In terms of the three focus points; citizenship, economy and foreign- and security policies, several aspects are worth noting in New Zealand's relations to the Cook Islands and Niue. A brief overview of these aspects are given in table 1, and elaborated on in the below. Notably, in the case of the Cook Islands three documents are of interest; the Cook Islands Constitution Act of 1964, the

⁶ This type of formalizing political agreements through understandings rather than through legal documents is also an aspect which differs greatly from the practice of the US as evident in chapter 6.2.

Exchange of Letters between the government of New Zealand and the government of the Cook Islands (1973) and the Joint Centenary Declaration of 2001. In terms of Niue the primary interest is on the Niue Constitution Act of 1974. In both cases, economic relations are explained on the basis of two economic reports published by the New Zealand Ministry of Foreign Affairs and Trade in 2015 as evaluations on the country programmes in the Cook Islands and Niue.

Table 1	The Cook Islands	Niue
Citizenship	Possess New Zealand citizenship	Possess New Zealand citizenship
Foreign- and security policy	De facto responsibility, with some influence internationally	De facto responsibility, with less impact internationally
Economy	Receives some economic support	Relies on economic assistance from New Zealand

6.1.3 Citizenship:

Both Niue and the Cook Islands enjoy New Zealand citizenship and the benefits, which directly follow such an arrangement. In both of the states' constitution it is declared that:

“Nothing in this Act or in the Constitution shall affect the status of any person as a British subject or New Zealand citizen by virtue of the British Nationality and New Zealand Citizenship Act 1948.” (Cook Islands Constitution Act, 1964, section 6) (Niue Constitution Act, 1974, section 5).

The citizenship is guaranteed through the Citizenship Act of 1977. This act enables New Zealand citizens to live, work and study in New Zealand. These options have proved to be double-edged for the islands, as will be elaborated on in the below, but more importantly, the citizenship is important even if the population in the Cook Islands and Niue choose not to move to New Zealand as it underlies New Zealand's responsibility to provide on-going financial aid and other support to the people of the associated states (Quentin-Baxter, 2008, p. 615) as well as the right to social progress and access to better standards of life (Quentin-Baxter, 2008, p. 617).

As mentioned, the common citizenship is considered to be a double-edged sword that causes some challenges for the pacific islands (Townend, 2003, p. 585). The citizenship is often used in

order to visit family in New Zealand, to work, to attend a university or to get specialist hospital care. The side effect of this arrangement is a population decline, due to anyone on both islands being able to leave and settle in New Zealand. This depopulation has placed considerable stress on the already small populations of the Cook Islands and Niue, with the latter experienced the most of the population, due to an already small population (Townend, 2003, p. 585).

For context, the population of the Cook Islands in 2006 was at 15.324 residents and 14.974 in 2011 (Cook Islands' Ministry of Finance and Economic Management, 2017). This depopulation stagnates in comparison to the period of 1995 to 2000, where the population decreased from 21.000 to 15.000 due to an economic crisis in the mid-1990s (Henderson, 2002, p. 82). In Niue, the population was at 1.625 in 2006 and 1.611 in 2011 (Statistics Niue, 2012), but the picture of major depopulation is the same in Niue, where the population at the time of obtaining self-governance in 1974 was around 5.000 (Henderson, 2002, p. 82).

This depopulation has been dramatic in Niue and the Cook Islands due to the automatic New Zealand citizenship. The privilege of citizenship may act as the curse in the free association arrangement, as the depopulation calls into question the future viability of the Cook Islands and Niue (Henderson, 2002, p. 82). However, this depopulation must be accepted as an inevitable response to the opportunities available primarily in New Zealand (Quentin-Baxter, 2008, p. 620). The citizenship itself has acted as an indication for other states that the two associated islands are not entirely independent; as it will be proven later, the states in free association with the US have been more successful in gaining membership of international organisations, whereas the Cook Islands and Niue have established a network of diplomatic relations, but few memberships in international organisations such as the United Nations (Henderson, 2002, p. 83).

Another key aspect of the shared citizenship is the basis on which it is granted. In both the case of the Cook Islands and Niue, citizenship is granted on the basis that the states

“[...] share a mutually acceptable standard of values in their laws and policies, founded on respect for human rights, for the purpose and principles of the United Nations Charter, and for the rule of law” (Joint Centenary Declaration, 2001, clause 2.1)

It is also noted in the exchanged letters between the Cook Islands and New Zealand of 1973:

“[...] The bond of citizenship does entail a degree of New Zealand involvement in Cook Islands affairs. [...] it also creates an expectation that the Cook Islands will uphold, in respect of their laws and policies a standard of values generally acceptable to New Zealanders” (Cook Islands Government, 1998, p. 31).

Thus the existence of non-declared, shared values ensures the exchange of citizenship between New Zealand and its two associates. However, this also meant that New Zealand would be able to use the violation of the non-declared standards of New Zealand as a reason of re-examining the arrangement, and in the worst case retract the privileges of citizenship. As noted by Henderson, this notion of shared values and standards pose as a warning to the Cook Islands, and Niue, as there are limits to which the actions of the associated states made on the basis of New Zealand citizenship that may test the patience of New Zealand (Henderson, 2002, p. 81).

6.1.4 Foreign- and security policy:

Both the Cook Islands Constitution Act of 1964 and the Niue Constitution of 1974 states that

“Noting in this Act or in the Constitution shall affect the responsibilities of Her Majesty the Queen in right of New Zealand for the external affairs and defence of Niue” (Niue Constitution Act, 1974, section 6) and *“[...] of the Cook Islands, those responsibilities to be discharged after consultation by the Prime Minister of New Zealand with the Prime Minister of the Cook Islands”* (Cook Islands Constitution Act, 1964, section 5).

Despite of the word ‘responsibilities’ and that these matters might be beyond the control of the Cook Islands’ and Niue’s governments, the prevailing view is that these responsibilities can only be exercised by New Zealand at the associated states’ request and on their behalf (Townend, 2003, p. 586) (Henderson, 2002, p. 84). This view is also transferred to the conduction of military exercises on Niue and the Cook Islands’ territory and in its territorial waters, where the New Zealand government seeks permission to carry out such exercises (Henderson, 2002, p. 84).

In conducting foreign policy, the same principles are prevalent in both the cases of Niue and the Cook Islands, where formal responsibility is in the hands of the New Zealand government, but in practice the situation is reversed. New Zealand does not direct the foreign policies of its associates, only when asked to do so by them. Instead New Zealand has worked with the Cook

Islands and Niue to project their international personality in different contexts (Henderson, 2002, p. 83) (Quentin-Baxter, 2008, p. 618). Most notably, the Cook Islands have entered into treaties in its own name, has become a member of a number of regional and international organisations, and has established diplomatic relations with several countries, including the United Kingdom, Germany and the US. In this respect, it has developed further than Niue (Townend, 2003, p. 587).

As was the case in the shared citizenship, the focus on shared values and on going communication is central on external affairs and security issues in the Joint Centenary Declaration of 2001 between the Cook Islands and New Zealand as well as in the Niue Constitution Act of 1974, where the focus is on co-operation in external affairs, security issues and in terms of economic and administrative assistance. In Niue's Constitution Act, it is provided that:

“New Zealand and Niue [...] may from time to time call for positive co-operation between New Zealand and Niue after consultation between the Prime Minister of New Zealand and the Premier of Niue, [...] (Niue Constitution Act, 1974, section 8).

In the cases of New Zealand and the Cook Islands, the states were to:

- *consult regularly on foreign affair matters with a view to formulate common policies and on defence and security issues.*
- *cooperate in the pursuit of common foreign relations objectives and in the defence and national security in accordance with respective capacities.*
- *advise each other when a proposed foreign policy initiative may affect the rights, obligations and interests of the other state, without impairing the right to formulate and implement independent foreign policies and to advise each other of any risks that may affect the other state. (Joint Centenary Declaration, 2001, clause 4.3.a.b.c and clause 7.3.a.b)*

Thus, there exists a clear emphasis on the wish for continued communication on these fields even though the Cook Islands posses the de facto responsibility. The actual need for the Cook Islands to receive assistance from New Zealand was according to Mininnguaq Kleist “[...] very rare” in 2003 and he noted that the Cook Islands were actually acting completely independently in the field of foreign policy (Kleist, 2005, p. 2). According to Kleist, it was assessed that the Cook Islands were

acting deliberately on the international scene, upholding to the shared values between the Cook Islands and New Zealand and staying clear of any difficulties (Kleist, 2005, p. 2).

Interestingly, Kleist noted that there were no contentions in the Cook Islands taking a position in foreign affair matters, which went against the foreign policy of New Zealand, as long as the decision to move against New Zealand were in line with the commonly shared values. However, it was preferred if the Cook Islands consulted New Zealand before such a situation arose (Kleist, 2005, p. 2). Thus, the commonly shared values seemed to overrule the view of formulating common policies on matters of foreign policy. This fact also underlines the de facto responsibility for foreign affairs resides with the Cook Islands and not New Zealand, who only retains the de jure responsibility.

A major topic of concern is the Cook Islands' inability to gain membership of the United Nations. This is primarily a case of difference between formal legal positions and what occurs in practice, as the Cook Islands and Niue both have rescinded their responsibility for foreign affairs and defence to New Zealand, which acts in consultation with the island premiers (Henderson, 2002, p. 83). It should be noted that New Zealand possesses a responsibility to assist the Cook Islands as mentioned, but this responsibility is "[...] not a qualification of Cook Islands' statehood" (Joint Centenary Declaration, 2001, clause 4.2 and 7.1). Nevertheless, it has been deemed that this responsibility is a factor in the qualification of the Cook Islands' statehood along with the shared citizenship. As long as the Cook Islands, and Niue, remain as states in free association with New Zealand, New Zealand will necessarily have a role in the islands external affairs, not least in terms of representation in the United Nations (Townend, 2003, p. 587).

6.1.5 Economy:

As previously mentioned, New Zealand committed itself to financial support of the Cook Islands and Niue through different means. Niue was secured financial support through section 7 of the Constitution Act of Niue and the Cook Islands were secured financial support, first expressed in New Zealand Parliamentary debates in 1964 by the Prime Minister, the Minister of Island Territories and the Deputy Leader of the Opposition, ensuring political consensus. Secondly in 1974, with the Ministry of Foreign Affairs and Trade decided that the separate appropriation of financial assistance to the Cook Islands instead should be provided through the Ministry's regular

aid policies and procedures from the Official Development Assistance budget (8, p. 615). And finally in the Joint Centenary Declaration of 2001, where New Zealand and the Cook Islands affirmed to continue expansion of commercial, economic and investment relations between the private sectors of each country (Joint Centenary Declaration, 2001, Clause 1c).

In the transition from subsistence to a money economy, New Zealand made money available in order to better standards of health care, education, housing and other amenities for the Cook Islands and Niue. As a result, the standard of living in the Cook Islands and Niue were raised to a level of which the islands could not sustain themselves (Quentin-Baxter, 2008, p. 618). Quentin-Baxter argues that New Zealand's priority is the maintenance and gradual improvement of living standards in the associated states, a view supported in the strategy of New Zealand's development aid. The exact amount of money transferred is worked out on the basis of the difficulties of life, including remoteness and the need for adequate means of communication. Quentin-Baxter argued, that the amount of money should enable the citizens in the associated state to enjoy a standard of living reasonably comparable to the standard of living in New Zealand, as New Zealand, through the extension of citizenship retains responsibility of the citizens in the Cook Islands and Niue (Quentin-Baxter, 2008, p. 619).

New Zealand has been the single most important donor to the Cook Islands over the course of its post-independence history. Since the 1970's New Zealand's aid to the Cook Islands has been in a constant decline, aside from occasional spikes associated with the response to natural disasters, such as the cyclones in 2005 (Cook Islands Programme Evaluation, 2015, p. 13). From the period of 1965 to 1997 the Cook Islands received budgetary support. Up until 2016 the Cook Islands would instead receive subsidies through a 'forward aid programme' being channelled through the New Zealand Aid Programme (NZAID), however the budgetary support provided by New Zealand to the Cook Islands has been reinstated as of 2016. This new budgetary support is aimed at improving effectiveness in delivery, due to it being monitored through an annual programme review report and will focus on health, education, tourism, public sector strengthening and social sectors. Over the period of 2016-2019 this support will consist of 47 million DDK annually (Cook Islands Programme Evaluation, 2015, p. 21).

New Zealand's development strategy in the Cook Islands is based on the Ministry of Foreign Affairs and Trade's Strategic Plan, which forms the basis for a Joint Commitment for Development that is negotiated with the Cook Islands Government. This document formalises the two states' commitment, highlights priority sectors and provides a framework for monitoring results (Cook Islands Programme Evaluation, 2015, p. 14). The focus has been on promoting economic growth, improving human development and strengthening governance, which has been provided through activities in water supply, waste and sanitation, renewable energy, tourism sector support and education budget support (Cook Islands Programme Evaluation, 2015, p. 14). The New Zealand's country programme allocation for the Cook Islands over the period from 2012 to 2015 was about 191 million DDK (Cook Islands Programme Evaluation, 2015, p. 14). If this were to be divided evenly on each year it would total to almost 47 million DDK being granted annually, the same level will be granted between 2016 and 2019.

On the other hand, Niue is heavily reliant on financial flows from New Zealand. The key aspect in economic relations between Niue and New Zealand is section 7 of the Niue Constitution Act of 1974. In it, it is provided that:

“It shall be a continuing responsibility of the Government of New Zealand to provide necessary economic and administrative assistance to Niue” (Niue, Constitutional Act 1974, section 7).

The term necessary is not defined in the constitution or in any subsequent document (Niue Programme Evaluation, 2015, p. 12). Thus provision for on-going financial assistance is a constitutional responsibility of New Zealand (Niue Programme Evaluation, 2015, p. 12). Niue is in a precarious position with a fragile economy that is heavily dependent on New Zealand budgetary support. In 2003 this support consisted of more than one fifth of Niue's annual income (Townend, 2003, p. 605).

Between 2002 and 2013 Niue received about 900 million DDK in monetary support from New Zealand. Between 1972 and 2005, the annual support to Niue from New Zealand has ranged between 66,5 million DDK to 173 million DDK after the cyclone Heta struck the island in 2005 (Niue Programme Evaluation, 2015, p. 12). The total support in 2012 was almost at 78 million DDK

(Niue Programme Evaluation, 2015, p. 33), in contrast to the hypothetical average of the Cook Islands support at almost 48 million DDK.

Under the current Joint Commitment between New Zealand and Niue, New Zealand provides 34 million DDK annually in direct budget support alone. This budget support has averaged about 50 % of the Niuean economy over the last decade. Other significant investments by New Zealand include support for administrative assistance, asset management, tourism and private sector development as well as support for education and health (Niue Programme Evaluation, 2015, p. 12).

The standard of living in New Zealand acts as the reference for the levels of standard of living in the Cook Islands due to three reasons. First, as citizens in the Cook Islands come to New Zealand for education, training, health care, work, family visits and settlement, living conditions in New Zealand become the norm of what is desirable. Secondly, the New Zealand citizenship acts as a standard in itself for the way in which people of New Zealand can expect to live. It is therefore reasonable to compare the availabilities of facilities in the Cook Islands to those in remote parts of mainland New Zealand. Thirdly, the free movement to New Zealand is in effect in competition with the continued presence of the labour force and communities in the Cook Islands. Money alone will not necessarily encourage people in the associated states to stay, but reduction in the level of financial support will encourage the depopulation of the islands. Quentin-Baxter argues that loss of population in the associated states must be accepted as an inevitable response to opportunities available elsewhere, but the following per capita increase in costs of providing acceptable living standards must also be accepted (Quentin-Baxter, 2008, pp. 619-620). According to Quentin-Baxter, the people of an associated State ought to be more self-supporting in principle. The difficulty of achieving that goal except by returning to subsistence living is the main reason why free association may be chosen over independence. The only safe assumption is that New Zealand's financial support is likely to be needed indefinitely for the two associated states (Quentin-Baxter, 2008, p. 620).

6.2 United States in free association:

In the following section I will trace the use of free association in the United States' context with the associated states the Federated States of Micronesia, the Republic of the Marshall Islands, and

the Republic of Palau. Material used in the Greenlandic-Danish Self-Government Commission from the New Zealand Ministry of Foreign Affairs and Trade on overviews of associated states of the United States will be employed in the historical overview. Further, I will employ the Compacts of Free Association that Micronesia, the Marshall Islands and Palau all have signed with the United States and the respective constitutions of the associated states. Moreover, I will employ material from the scholars Henderson (2002) and Keitner & Reisman (2003) in conceptualization the notions from the Compacts of Free Association. In comparison, the need for economic reports in the United States' relations with its associated states is non-existent, as the compacts provide specific information on these arrangements.

6.2.1 Historical overview:

Micronesia, the Marshall Islands and Palau all share a closely related history from around the time of World War I and onward. All of the islands were settled between 3-4.000 years ago with European explorers arriving 16th century, with the exception of Palau that was discovered in the 18th century. In 1885 Germany established a protectorate over the Marshall Islands, and bought Micronesia and Palau from Spain in 1899, due to Spain's defeat in the Spanish-American War. During World War I all of the islands were occupied by the Japan and administered under the League of Nations mandate in 1920. This continued until World War II when the United States occupied the islands. Here after the islands were administered by the US as a part of the United Nations Trust Territory of the Pacific Islands. This trusteeship with the United Nations made the US responsible financially and administratively for the islands and obligated the US to foster the development of political institutions. Moreover, the US was to move the Trust Territory toward self-government and to promote economic, social and education advancement. This agreement also allowed the United States to establish military bases and to station military forces on the islands (Bureau of East Asian and Pacific Affairs, 2005).

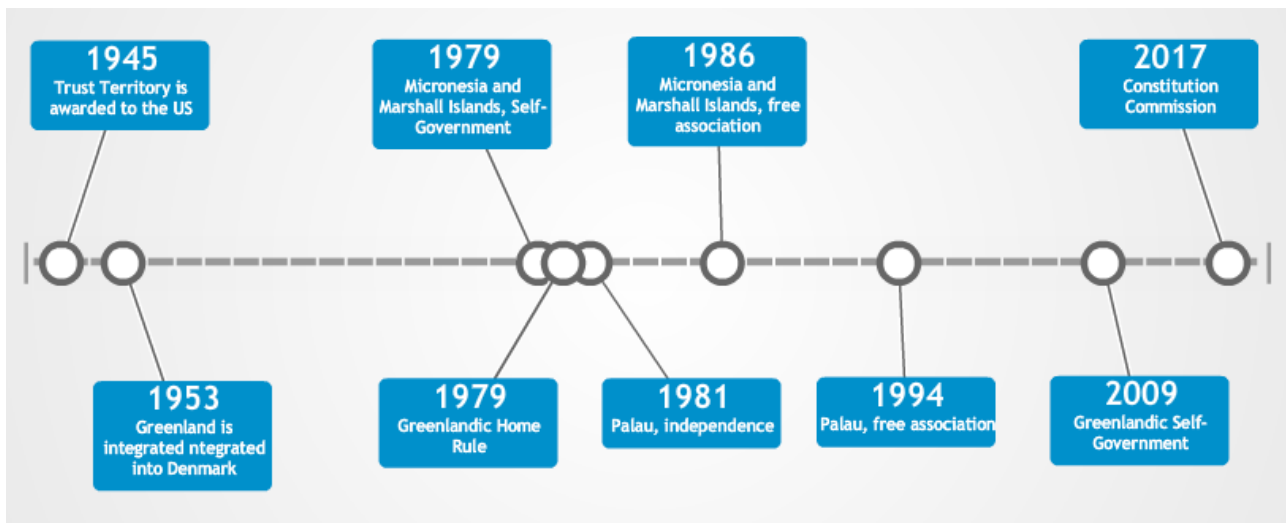
From 1979 and onward the history of the islands once again differs. In 1979, four of the Trust Territory districts ratified a new constitution to become the Federated States of Micronesia. The neighbouring trust districts of Palau and the Marshall Islands chose not to participate. Micronesia became independent and signed a Compact of Free Association with the United States in 1986, marking Micronesia as an independent nation, where the US retained responsibility of defence

and security matters. A renegotiated compact, the Amended and Perpetual Compact, entered into force in June 2004, which provided for 1.8 billion USD, around 12 billion DDK, in funding over the next 20 years, some of which will be used to establish a trust fund to replace direct financial assistance from 2024 and onwards (NZMFAT, Micronesia, 2007, p. 2).

Instead of joining the Federated States of Micronesia, the Marshall Islands formulated their own constitution, which was recognized by the United States and established the Government of the Republic of the Marshall Islands. The constitution incorporates both American and British constitutional concepts. The Marshall Islands gained independence in free association with the United States under a Compact of Free Association in 1986. This compact provided funding of 1.7 billion DDK over 15 years. An amended compact went into force in 2004, guaranteeing US funding of around 5.5 billion DDK over the next 20 years. Just as Micronesia's compact of 2004, the new compact for the Marshall Islands also aims at phasing out direct financial assistance to be replaced with a trust fund. Importantly in the perspective of security issues, the long run use of Kwajalein airbase by the United States was confirmed (NZMFAT, Marshall Islands, 2007, p. 2).

Palau approved a new constitution and became the Republic of Palau in 1981, signing a Compact of Free Association with the United States in 1982. However, Palau's emergence from trusteeship to independence was only achieved after eight referenda and an amendment to the Palauan constitution in 1994. The amendment of the constitution revolved around a provision that banned nuclear and toxic materials being present in Palau, a provision the United States could not accept due to military vessels being powered by nuclear sources and being equipped with nuclear missiles (Keitner & Reisman, 2003, p. 50). The compact was finally approved after twelve years in 1994. Several factors contributed to the ultimate approval, including frustration with the deadlock, fear of foreign investors avoiding Palau due to political uncertainty and the decreased fear of war after the end of the Cold War (Keitner & Reisman, 2003, p. 51). The signed compact is of a fifty-year period, wherein the US retains responsibility for Palau's defence and security, while also providing substantial funding. This compact will be reviewed on the fifteenth, thirtieth and fortieth anniversaries of the effective date of the Compact, where the overall nature and development of the relationship is considered (Compact, Palau, 1986, section 431-432). This translates into reviews in 2001, 2016 and 2026.

The following contains a timeline of the most important event of the United States' associated states in comparison to Greenland:



6.2.2 Key aspects of focus points

In the case of the United States associates, the primary source material is that of law documents, called compacts that very clearly define the free association arrangements between the United States and its associates. These are the Compact of Free Association, to which one is assigned to each associated state of the US. In terms of the three focus points; citizenship, economy and foreign- and security policies, several aspects differ in the arrangements the United States has made with Micronesia, the Marshall Islands and Palau, in comparison to New Zealand and Niue and the Cook Islands. First and foremost it is noticeably that the US associates can terminate the compacts of free association with six months of notice, but certain elements of the compacts will persist beyond termination, notably the security and defence arrangements (Keitner & Reisman, 2003, p. 52). These, and other, aspects will be elaborated on in the following section, but key notion can be seen in the below table 2:

Table 2	Micronesia	Marshall Islands	Palau
Citizenship	No citizenship	No citizenship	No citizenship
Foreign- and security policy	Responsible of foreign policy, with the US responsible of security	Responsible of foreign policy, with the US responsible of security	Responsible of foreign policy, with the US responsible of security
Economy	Subsidies continue to 2024, after which Trust Fund takes over	Subsidies continue to 2024, after which Trust Fund takes over	No agreement has been ratified since 2010

6.2.3 Citizenship:

The most central aspect of citizen rights in the United States associates of Micronesia, the Marshall Islands and Palau, is that, contrary to the New Zealand associates, they have no right to claim US citizenship. Instead citizens of the US associate states possess the right to travel, live, study and work in the US (Henderson, 2002, p. 81) (Compact of free association, Palau, Micronesia and that Marshall Islands, section 126, 141 and 211). This enables citizens of the associated states to pursue opportunities available elsewhere, as is case of New Zealand's associated states, as remarked by Quentin-Baxter (2008), but the US provides no guarantees to the citizens of its associated states in regards to upholding standards of living; a responsibility New Zealand holds.

A remarkable side effect of this lack of citizenship has been a relative smaller depopulation of the US associated states in comparison to the New Zealand associated states. As noted by Henderson (2002), significant Micronesian communities are present in California, while about 15.000 Micronesians are residents of Hawaii, Guam and Saipan, however the size of these communities are smaller (Henderson, 2002, p. 82) and pose no immediate risk of depopulating the US associate states, instead rapid population growth is considered a concern (Keitner & Reisman, 2003, p. 45).

6.2.4 Foreign- and security policy:

The aspects in the free association compacts of the United States associated states vary to some degrees in terms of content, but one central aspect is present in all three compacts. If the compacts are terminated by either the principal or the associated state, section 453 in each of the compacts provides that the arrangements in relation to security and defence relations continue

until 50 years after the compact is terminated, in the case of Palau, and until the twentieth anniversary of the effective end of the compacts, in the case of Micronesia and the Marshall Islands (Compacts of Free Association, Marshall Islands, Micronesia and Palau, section 453). This aspect also proves itself as one of the largest obstacles in regarding the US associates as entirely independent (Keitner & Reisman, 2003, p. 55).

Nothing in these arrangements are per se objectionable: in return for security and protection, the associated states grants the United States strategic discretion and exclusivity with respect to the potential military activities of third parties. The provisions of survivability in the compacts, especially in the case of Palau are somewhat questionable in terms of regarding the associated states to the United States as fully independent, as supported by (Keitner & Reisman, 2003, p. 58). This aspect marks a key difference between the associated states of New Zealand, which are bound by no provisions after the termination of the free association arrangements. However, as will be elaborated on below, the strategic interests of which the United States possess in its associated states are nowhere comparable to those of New Zealand and its associated states.

In terms of conducting their foreign policy, the associates to the United States have all agreed to:

“[...] refrain from actions which the government of the US determine, after appropriate consultations with the governments, to be incompatible with its authority and responsibility for security and defence matters” (Compacts of Free Association, Marshall Islands, Micronesia and Palau, Section 313).

In effect, as noted by Henderson (2002), this provides the US with veto power over aspects of foreign policy they consider to have negative implications for US strategic interests. However, this veto power is seldom in use, but they exist nevertheless in all three compacts of the associates. An example of the use of veto was in 2000, when a naval vessel visiting the Marshall Islands from Taiwan was denied access due to its presence conflicting with the US' one-China policy and therefore having negative implications for US strategic interests (Henderson, 2002, p. 84).

Because of an overlap in responsibilities between the United States in handling security and defence matters and the associated states in handling their own foreign policies, coordination and consultation is an important matter between the US and its associates (Keitner & Reisman, 2003,

p. 53) just as it is between New Zealand and its associates. Moreover, just as case of New Zealand and its associates, the compacts between the US and its associates allow for the possibility of the US to “[...] assist or take action on behalf the associated state if requested and mutually agreed from time to time” (Compact of Free Association, Marshall Islands & Micronesia, section 124) (Compact of Free Association, Palau, section 127).

Even though several aspects could point toward a lack of real independence in the cases of the United States associated states, these associates have been more successful than those of the New Zealand associates in gaining membership of international organisations. The three associates of the US have gained membership of the Pacific Island Forum, the Asian Development Bank, the World Bank and the International Monetary Fund along with membership in the United Nations amongst others (Henderson, 2002, p. 83) (Keitner & Reisman, 2003, pp. 58-61).

In terms of defence and security, the relationship between the United States and its three associates differ greatly in some aspects in comparison to the New Zealand associates, as previously mentioned. Central to the US’ relation to its associates is that of ‘Title Three’ in each of the compacts. In this title, the US upholds:

“[...] full authority and responsibility for security and defense matters”, the option to “[...] foreclose access [...] by military personnel or for military purposes of any third country”, and the “[...] option to establish and use military bases” (Compacts of Free Association, Marshall Islands, Micronesia and Palau, Title Three).

Thus, the US is solely responsible for the defence and security of the associates and their territories, with the ability to establish bases and carry out denials of third parties of any military character. Formally, these terms were delegated from the associates to the United States, but as it was evident in the case of the establishment of Palau’s Compact of Free Association (1994), the establishment of the free association agreement was relying on the US being granted access with nuclear powered vessels and weapons (Keitner & Reisman, 2003, p. 50), and therefore, in practice the terms were a more of a demand from the US.

The primary strategic interest for the US in the three associates is the missile testing facility located in Kwajalein atoll in the Marshall Islands. This atoll is part of the national missile defence

shield, just as the US air base in Thule, which remains as a part of the US national missile defence shield (Hills, 2004, p. 2). Henderson (2002) notes that the benefits that were available to the associates, due to their strategic position, during the Cold War, when the Compacts of Free Association were established, have to this waned. Nevertheless, this situation could change if tensions would rise between China and the US (Henderson, 2002, p. 84). This tension has increased somewhat with Chinese aggression in the South-China Sea with the establishment of new islands that house military bases. However, worrisome as this development could be, China is yet to declare itself an enemy of the current post-war order led by the United States (Mazarr, 2017, p. 28). Therefore, one should be hesitant in expecting the strategic value of these islands to increase exponentially in the near future.

In relation to remnants of the Cold War, the Compact of Free Association with the Marshall Islands formalised the payment of compensation to the Marshall Islands for damages incurred to the environment and health of the local population, caused by the United States' testing programme in the early 1950s. This provision in the compact remains an area of tension, as the funds provided by the US have fallen short of the amounts awarded to the Marshall Islands by the Nuclear Claims Tribunal (Henderson, 2002, p. 84).

6.2.5 Economy:

The Compacts of Free Association of Micronesia, the Marshall Islands and Palau all possess a section, Title Two – Economic Relations, that covers the following areas: grant assistance, service assistance, administrative provisions, trade and finance and taxation. Central to these aspects are the size of grants transferred from the United States to its associates, areas of which these funds will be spent and special provisions in regards to the presence of the US military.⁷ In the following I will give an overview of the funds transferred from the US to its associates and investigate on which grounds these are being transferred. As mentioned, the Compacts of Free Association related to the United States have all received subsidies since they became associated states. The overall amount of these subsidies has varied from state to state, but has more or less been transferred every year. However, some major differences exist between the agreement with Palau

⁷ This is especially true for the Marshall Islands' Kwajalein Atoll

on the one hand, and the agreements with Micronesia and the Marshall Islands on the other hand. In the following I will present these differences and their consequences for each state.

From 2024 and onward the subsidies from the United States to Micronesia and the Marshall Islands will change. The current agreements on subsidy to Micronesia and the Marshall Islands will expire in 2024 and will be replaced by payments from a Compact Trust Fund (CTF). The previous payments, which were transferred from 2003-2023, sought to “[...] promote the economic advancement, budgetary self-reliance, and economic self-sufficiency” (Compact of Free Association, Micronesia and the Marshall Islands, 2003, section 211a). These grants were targeted for assistance in the sectors of education, health care, private sector development, the environment, public sector capacity building, and public infrastructure, with priorities in the education and health care sectors (Compact of Free Association, Micronesia and the Marshall Islands, 2003, section 211a). Thus, the United States sets out the areas of which the two associated states may utilize the subsidies.

Moreover, Micronesia is to adhere to a ‘Development Plan’ that is strategic in nature. This plan is to monitor and review the use of funding on all of the above areas set out by the United States. Moreover, this plan is subject to the concurrence of the United States (Compact of Free Association, Micronesia, 2003, section 211c). The Marshall Islands is not subject to a development plan, in name, but to a ‘Budget and Investment Framework’. This is more or less the same as what Micronesia is subject to; a strategic plan, used to monitor and review the use of funding in the areas as listed by the United States, and when specific grants from the United States are used, then the framework is subject to concurrence from the United States (Compact of Free Association, the Marshall Islands, 2003, section 211f).

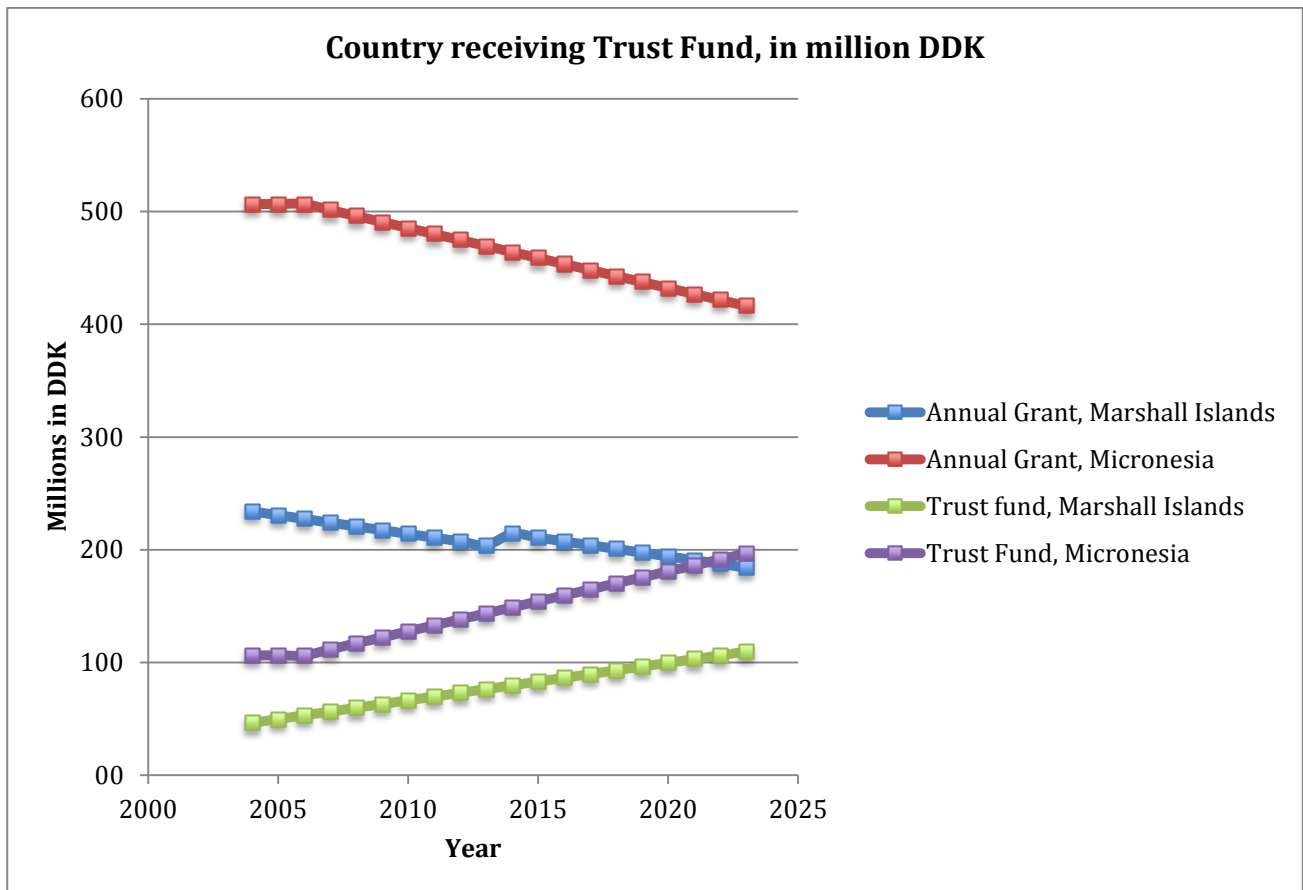
Specifically for the Marshall Islands, a section regarding the Kwajalein Atoll is included in the Compact agreement of 2003. In this section the military use and operating rights are paid for in terms of three grants; one that aims to support and improve infrastructure and the delivery of services, one aiming at the development of human and material resources necessary to maintain the infrastructure and delivery of services and finally one that specifically pays for the use of military. Moreover, the United States provides a grant for special needs within in the communities in the Kwajalein Atoll, with an emphasis on the Kwajalein landowners (Compact of Free

Association, the Marshall Islands, 2003, section 211b). These subsidies all seek to compensate the Marshall Islands for the United States' use of military facilities in the area, especially in respects to "[...] scarcity and special importance of land" (Compact of Free Association, the Marshall Islands, 2003, section 321c). These subsidies are listed in the below table 3.

Table 3, Kwajalein Atoll, annual subsidy, in million DDK	2004-2013	2014-2023
Military use and operating rights	99,7	119,7
Infrastructure and maintenance	20,6	33,9
Special community needs	12,6	

In both the case of Micronesia and the Marshall Islands, the annual subsidy grants are to be phased out after 2023, from which an established trust fund will take over funding of both associated

states. The US will contribute to this fund until 2023 (Compact of Free Association, Micronesia, 2003, section 215) (Compact of Free Association, the Marshall Islands, 2003, section 216). The provisions regarding the 'Development Plan' and the 'Budget and Investment Framework' will continue to apply for the trust funds, as well as the provisions regarding which areas the funding will be used in (Compact of Free Association, Micronesia, 2003, section 215a) (Compact of Free Association, the Marshall Islands, 2003, section 216a). These contributions through the CTF will serve as the new foundation for subsidies from the US to the Marshall Islands and Micronesia. The exact size of these subsidies can be seen in below chart, which the highest payment being the annual grant for the Micronesia in 2004, on 506 million DDK and lowest being the 2004 grant to Marshall islands on 234 million DDK. In this connection it should be noted, that from 2004 to 2023 the increase in payments made to the trust fund is counterbalanced in the annual grants. Thus, the level of US subsidies remains the same in the period until the transfers are terminated.



Lastly, both Micronesia and the Marshall Islands are provided with different services and program assistance by the United States. These include services on weather, postal, aviation, transportation, homeland security, international development funds as well as the Office of Foreign Disaster Assistance (Compact of Free Association, Micronesia and the Marshall Islands, 2003, section 221). Moreover, Micronesia gains exclusive access to the Federal Deposit Insurance Corporation for the benefit of the Bank of the Federated States of Micronesia alone (Compact of Free Association, Micronesia, 2003, section 221a). The access to these services provides the associated states with the benefits without having to develop the infrastructures needed for them.

The case of economic relations between Palau and the United States is entirely different from the relation with the two other associated states, presented in the above. Palau entered into an agreement with the United States in 1994, wherein the United States would provide financial aid between 1994 and 2009 for infrastructure investments, budget support, and the establishment of a Compact Trust Fund (CTF). This aid amounted to 3,856 billion DDK spread over 15 years, roughly estimating 257 million DDK annually (IMF, Palau, 2016, p. 4). The aim of the trust fund was to

provide Palau with an income of about 100 million DDK annually from 2010 to 2044 (GAO, Palau, 2016, p. 3). These areas of aid were somewhat similar to Micronesia and the Marshall Islands. However, the CTF funds proved insufficient for self-sufficiency and a new agreement, extending financial assistance for another 15 years, was signed in 2010. This new agreement is yet to be ratified by the United States' Congress, but Palau continues to receive grants and withdrawals from the trust fund (IMF, Palau, 2016, p. 4). Therefore, there is a lot of uncertainty regarding future economic agreements between Palau and the United States and the provisions in the Compact of Free Association is rendered useless until a new agreement is ratified.

In order to provide some insight into the economic relations between Palau and the United States, I have chosen to focus on the agreement signed in 2010 as a basis and more specifically a proposal for changes in the agreement of 2010, called House Bill 4531. This bill is yet to be accepted in the United States Congress and serves as the newest attempt to ratify the deal from 2010 (GAO, Palau, 2016, p. 3). This new 2010 agreement would provide Palau with a total of 1.436 billion DDK from the period 2011-2024, with the aim of ensuring self-sufficiency on the basis of a trust fund after 2024 (GAO, Palau, 2016, p. 2). In the period 2011-2016, the US has provided 525 million DDK in economic assistance to Palau through annual appropriations (GAO, Palau, 2016, p. 2).

The new 2010 agreement would focus on six key areas; direct economic assistance, infrastructure projects, infrastructure maintenance fund, a fiscal consolidation fund and trust fund contributions (GAO, Palau, 2016, pp. 6-8). The goal of these key areas is to advance the economy of Palau and eventually establish self-sufficiency (GAO, Palau, 2016, p. 5). The direct economic assistance would be aimed at supporting the Palau government's operations in administration of justice, public safety, health and education. The infrastructure projects would be established as mutually agreed upon by the United States and Palau. The Infrastructure maintenance fund would focus on major capital improvement projects such as roads and the airport. The fiscal consolidation fund would aim to reduce the debts of the Palau government with a focus on creditors in the United States. Finally, the trust fund contributions would increase transfers from the United States, while reducing withdrawals by Palau. The use of money from the trust fund would also be exclusively spent on education, health and the administration of justice and public safety (GAO, Palau, 2016, pp. 6-8).

In summary, the content of the economic relations between the United States and its associated states are somewhat similar. They all mainly focus on the establishment of a Compact Trust Fund, from which the associated state will have to rely on for economic grants. The spending from these CTFs are however limited to some selected areas, often that of health, education and the maintenance of administration on justice and public safety. Overall, Micronesia is the associated state that gains the highest amount of subsidies, with the Marshall Islands coming in second and Palau receiving the lowest amount. Also, in the case of Palau the transfer from direct budgetary support to reliance on a CTF has been a failure, wherein the United States continues to provide Palau with additional funding. This has also caused a situation, wherein the ratification of a new agreement is yet to come, with subsidies being granted on an annual basis instead of being granted on the basis of a short-term agreement. It should be noted that this kind of fixed, short-term agreement with a scheduled end for subsidies has proven to cause some instability in the economic relations.

6.3 Comparison of free association in the United States and New Zealand

Overall, the free association agreements established by the United States and New Zealand are similar in some areas, and very different in other areas. These differences primarily stem from the historical relationship between the associated states and the United States and New Zealand. In the following I will be comparing the historical aspects and the three focus points of the thesis.

6.3.1 Historical overview:

In terms of historical overview, the main distinction between the United States and New Zealand is related to the colonial ties, or lack thereof. New Zealand has colonial ties to the associated states going back to 1901, from which point the Cook Islands and Niue were part of the New Zealand administration. The associated states were, on the basis of anti-colonialism sentiments in the United Nations, given the choice of integration, independence or free association. Here free association was chosen on the basis of negotiated deals. These agreements were for the Cook Islands reaffirmed in 2001, wherein the relationship was reaffirmed. In contrast, the associated states related to the United States were at first German colonies, which were conquered by Japan in the First World War, and by the United States in the Second World War. Therefore, the setting for the islands has been dominated by war and shifting power balances. After the Second World

War these associated states were incorporated into a Trust Territory by the United Nations, which the United States governed. In 1979 this Trust Territory was shattered and soon after Micronesia, the Marshall Islands and Palau were established in free association agreements with the United States in 1986. Palau differed somewhat as nuclear concerns postponed the free association agreement to 1994.

6.3.2 Citizenship:

In terms of citizenship the cases of New Zealand and the United States differ greatly. The United States does not extend citizenship to its associated states as New Zealand does, however, they do provide the associated states with the ability for the citizens to freely travel, live, study and work in the United States. These rights are also available to the associated states of New Zealand, however New Zealand also retains several of responsibilities of these people under international law, as they are part of the New Zealand Realm. This citizenship is granted on the basis of shared values between New Zealand and its associated states. It must be assumed that either these do not exist between the United States and its associated states or the United States chose not to extend these rights in order to avoid the following responsibility. Lastly, the citizenship has also entailed a substantial depopulation of the associated states of New Zealand, whereas the United States experiences a less substantial depopulation. In both cases, large communities of citizens of the associated states live in the United States or New Zealand.

6.3.3 Foreign- and security policy:

Regarding foreign- and security policy arrangements, the cases of New Zealand and the United States differ greatly as well. In the case of New Zealand, the associated states possess the de facto responsibility of carrying out foreign policies, however New Zealand retains the de jure responsibility of these. This has promoted large degrees of cooperation and communication between New Zealand and its associated states, for instance in terms of promoting the associated states agendas. In contrast the associated states of the United States retain the de jure and de facto responsibility of foreign affairs, however the United States possesses a 'defence veto' over decisions in foreign affairs made by the associated states, in these decisions are assessed as hindering the United States' responsibilities of security. Therefore, some of the de facto responsibility lies with the United States. This has also effected the degree to which the associated

states have been able to gain membership of international organizations, with the associated states of the United States being highly successful, and the associated states of New Zealand being less so, best exemplified by the Cook Islands' failed attempts to join the United Nations.

Moreover, the security policies differ more and than any aspect in the free association agreements. In case of New Zealand, they possess the responsibility of protecting the associated states and their territories, but military exercises must be carried out on the acceptance of the associated states. In contrast, the United States has extensive military arrangements with its associated states. Notably, the arrangements will continue either 20 or 50 years after their termination depending on the associated state, with the United States continuing to have access to military bases and privileges such as denying third parties access to the territory. These differences largely spring from the historical pasts, where the motivation for the United States was of military strategic interests, due to military bases such as the Kwajalein Atoll, whereas New Zealand had a less militaristic, more colonial past in which certain responsibilities were contained. This is also evident in the case of Palau's movement to free association, which was ratified on the contingent that the United States would be able to transport nuclear materials in the territory of Palau, even though this was sought to be banned in the constitution. This also relates to the United States paying for damages made during nuclear testing in the territory of its associated states.

6.3.4 Economy:

The aspect of economy differed between the United States and New Zealand to a smaller degree than the above focus point. Both the United States and New Zealand have paid different types of subsidies to its associated states and both have in recent times moved towards establishing trust funds from which the associated states will receive economic assistance through. A key difference is that the United States will cease to continue paying into these trust funds from 2024, whereas the economic assistance from New Zealand is guaranteed through the agreements of free association and the citizenship to possibly continue indefinitely. The United States retain this option, in contrast to New Zealand, as the United States is bound by no responsibilities of citizenship. In both the United States and New Zealand cases of free association, the focus on economic assistance has been the development of infrastructure, educational and health facilities, the creation of jobs and government assistance. Moreover, the United States had from the start

incorporated different kinds of development plans to which the funds would be reviewed in, whereas New Zealand has just begun with this. The United States also have different expenses regarding the military bases and activities in the associated states, especially in regards to the Kwajalein Atoll, where different clause are in effect in regards to maintenance, supply and compensation for the land used.

It should also be noted, that the free association agreements of New Zealand are in effect until something else is expressed by New Zealand or the associated states, which follows the economic provisions. On the contrary, the United States Compacts of Free Association are limited in time and up for renewal, wherein the economic provisions are negotiated. This may cause some instability in the free association agreements, exemplified by the case of Palau, which technically has been without a renewed free association agreement since 2010. Nevertheless, the United States has continued to supply Palau with economic assistances on a yearly basis at levels similar to the years before.

Chapter 7: Siumut politicians views on free association

In the following section, I will investigate the notions on free association made by politicians from the political party Siumut since 2002 on the basis of the three focus points in the thesis. The purpose of this investigation is to determine what Greenlandic politicians define as free association and what aspects of such an agreement are of interest for the politicians in the possible restructuring of Greenland and Denmark's relations. Central to the analysis is the politicians' beliefs and remarks on free association. Whether they are correct or incorrect, in terms of what may be possible in free association on the basis of the United Nations conceptual framework, is not of importance as the focus is on the politicians' own constructed versions of free association. Moreover, the analysis is chronologically structured instead of being structured in a thematic sense, as is the case of chapter 6 and 8. This is a deliberate choice, as the thematic structure would obscure the developments and changes made in the aspects promoted in free association. This enables the tracking of the shift in focuses, and is closely related to how the games of late sovereignty have been carried out by the Siumut politicians over time.

As free association originates from the United Nations' process of decolonisation, wherein referendums of different choices were given to the colonised populations, except for the case of Greenland, as previously mentioned, the analysis will focus on remarks and notions made in public, which may have influenced the public. This choice is made on the basis of the possibility of a referendum, wherein free association may be an option. This also entails that remarks and notions made during private meetings are not included. I am aware of not all communication on free association have taken place in the public, and some of this communication has presumably been internal within Siumut, however I have not been able to access any of this information.

In the following section, material from Danish and Greenlandic newspapers have been included along with documents from the Danish and Greenlandic parliaments, Folketinget and Inatsisartut respectively. Remarks made in these instances have all been publicly available, as they were written by the politicians in the newspapers, discussed in the parliaments or sometimes quoted in the newspapers afterwards. The material ranges from 2002 up until today, with the largest concentration of material being around the time of the preparation and unveiling of the Report of Self-Governance in Greenland in 2008 as well as the preparation of the Greenlandic Constitution Commission of 2017.

The first notions of free association as a possible alternative to the Greenlandic Home Rule had, according to Breum (2015), preoccupied Lars-Emil Johansen and was inspired by among others the Icelandic international law expert, Gudmundur Alfredsson (Breum, 2015, p. 24). These notions were held by the, then, member of the Danish Parliament and later Premier of Greenland, Kuupik Kleist, as well as the chairman of the political party Siumut and soon to be Premier of Greenland from 1991 to 1997, Lars Emil Johansen (Breum, 2015, p. 24). In 1994, a Greenlandic delegation consisting of Ove Rosing Petersen, then head of the Greenlandic health authorities, and Hans Jakob Helms, a leading official in the Home Rule, had travelled to the Cook Islands and met with leading officials (Breum, 2015, p. 22).

Written communication on remarks made on free association during this period, and in general before 2002, is hard to come by however. Therefore, I have chosen to limit the material for the analysis to range from 2002 up until today. I recognize that free association was a known concept by Greenlandic politicians before 2002, but I am unable to determine whether the knowledge of

this concept was shared in any public settings, and more importantly what it was perceived as being capable of achieving. As a last notion, it should be mentioned that all of the excerpts below made by politicians were stated in Danish and I have since then translated the statements into English.

Thus, the analysis takes its point of departure in 2002, where free association was brought up in Inatsisartut in the context of the Greenlandic Inuit's position in international law in regards to the Chapter XI of the UN Charter, as previously described in chapter 1. Free Association was brought up on the basis of the aforementioned Gudmundur Alfredsson's doctoral thesis *Greenland and the Law of the Political Decolonisation*, 1982. The notion of free association was put forward in the context of a possible referendum, which Denmark 'owed' Greenland from 1953, wherein the Greenlandic people would be asked of whether they wished for independence, a free association agreement or a continuation of the Home Rule Act of 1979. Notably, the free association agreement was presented as a "[...] loose and voluntary association, where the equal status of the people characterizes the relationship between two countries" (Debate, Inatsisartut, 14th of May, 2002, agenda item 58-1).

At the time the politicians would present the Greenlandic people with three different choices, two of which were easy to understand; to sever the ties to Denmark completely or to maintain the current agreement, and a third and unclear option; to enter into a loose and voluntary association, an unknown quantity, but nevertheless a possibility. It could be argued, that this unknown quantity was included due to its existence within UN framework and Alfredsson doctoral thesis and not due to it being perceived as a viable option, since no remarks were made on what such an association would constitute. However, in the following years it would become clearer what could be gained from this third option and that it was becoming an increasingly viable option.

In 2004, the Premier of Greenland, Lars Emil Johansen, held a speech in Folketinget as chairman of his party, Siumut. The speech was held in response to the Prime Minister of Denmark, Anders Fogh Rasmussen, and his account of the current status of the Danish Realm and planned arrangements by the Danish government in the context of the, then, newly appointed Greenlandic-Danish Self-Government Commission. Johansen presented the concept of free association as a "path of renewal" between Denmark and Greenland, that the concept was

recognised by the UN and well-known by countries such as the Netherlands, USA and New Zealand, which “Denmark is fond of comparing itself”. (Johansen, speech, Folketinget, 2004). For Johansen, free association served as a legitimate new path in the relationship between Denmark and Greenland.

Further, Johansen remarked that the next steps for Greenland on the path towards independence would be to focus on the development of the economy, educating a Greenlandic labour force and developing Greenlandic foreign policy capabilities. Whether these were aspects that should be included in a free association agreement or solved before one such is unclear, yet Johansen notes that a free association agreement would enable a “[...] more international and independent latitude than Greenland and the Faroe Islands are in possession of today. It is the model, where love and independence is allowed to walk hand in hand” (Johansen, speech, Folketinget, 2004), which could translate into increased Greenlandic foreign policy capabilities. Notably, Johansen speaks of free association, as a mix between love and independence. What degree of independence Johansen believed was obtainable in free association is unknown, but he was presumably not speaking of total independence from Denmark, as love was a part of the arrangement. Following the logic of the metaphor, it would be unexpected if the love of your partner allowed for complete separation.

Later, in the fall of 2005, Johansen perceived the relations between Denmark and Greenland to be turning for the worse due to two conflicts as Johansen considered colonial dominance to be on the return. The first conflict revolved around the contested island, Hans Island, which resides between Greenland and Canada – an island that Denmark claims sovereignty of on behalf of Greenland. The conflict came to light along with a demand by two Danish politicians for non-Danish speaking Greenlanders in Denmark to be sent back to Greenland. Johansen remarked, “[...] the only lasting answer to the Greenlandic identity is to be set free of the forced Danish citizenship and instead establish a new solidarity [...] a so called free association” (Johansen, feature, 2005). This was to be in solidarity in which “[...] we in Greenland create our own constitution, based on our own culture, tradition and way of thinking, and there after enter into a free association with Denmark” (Johansen, feature, 2005). Thus, for Johansen the Danish citizenship became a symbol of the missing presence of a Greenlandic identity in the relationship between Denmark and Greenland. Johansen had no interest in keeping the Danish citizenship for Greenlandic citizens in the future or

in a free association agreement with Denmark, since it was hindering the presence of a Greenlandic identity. In getting rid of the Danish citizenship Greenland would be able to form a new identity free of colonial ties. Johansen further noted:

“For a country, as rich as ours on shrimps, Greenland halibut and crabs, whales, clean drinking water, gold and maybe oil and gas, and to top it all off possess the unique position in the global defence policy and research environments, there should be nothing to it in adjusting its independence in a dignified manner in no time” (Johansen, feature, 2005).

The economic foundation for establishing an independent nation should have been present at the time according to Johansen, but the manner of which independence was to be obtained was unknown due to a lack of knowledge of possibilities within independence as well as the close bonds between many Danish and Greenlandic citizens (Johansen, feature, 2005). Nevertheless, “[...] the battle for freedom and cohesion can go hand in hand” if Greenland would be granted independence of the Danish constitution, so that Greenland would be able to negotiate conflicts of territory and border on their own, while avoiding to appear as Danish citizens (Johansen, feature, 2005). For Johansen, the key concern is with the theft of identity in the Danish constitution, along with a lack of independence in carrying out what constitutes as foreign policy negotiations. This is interesting, as Johansen makes no mention of security concerns in terms of negotiations of territory, which is carried out by Denmark. This leaves several questions of the degree of independence to which he seeks for Greenland, and the degree of connection to Denmark in free association. Nevertheless, it is certain, that foreign relations and the creation of a constitution are key aspects in Greenland moving towards independence.

Once again, now in 2008, in a speech on the national budget held in Folketinget, Lars-Emil Johansen spoke of free association and the related areas of cooperation in such an agreement. Johansen remarked, that Greenland could pay Denmark for services being carried out in the future and suggested that this could be in regards to “[...] representation abroad, defence of our borders or surveillance of the airspace just to name a few clear-cut areas” (Johansen, Folketinget, 2008). Thus, Johansen answered some of the questions from the remarks made in 2005, in elaborating on what a free association agreement might contain. In 2008, the focus is on foreign policy, military and the assertion of sovereignty, and these areas being perceived as clear-cut topics for a

free association agreement. Remarkably, according to Johansen, these three areas only serve as a small number of a higher total of clear-cut topics that could be incorporated into the agreement. What Johansen exactly had in mind is not certain, but citizenship could be one, as previously mentioned. Moreover, it is noteworthy that these remarks were made shortly before the presentation of the Report on Self-Government in Greenland, which was published on the 17th of April 2008 (Report on Self-Government in Greenland, 2008, p. 5). Consequently, it is likely that Johansen could have been influenced by his participation in the Greenlandic-Danish Self-Government Commission's work, and through this been influenced by the experts in the working groups. As made clear in chapter 1, the Self-Government Commission investigated the possibility of free association within the Danish Realm, but discarded the free association, as it would require Greenlandic independence as a sovereign state from Denmark.

In regards to the economic aspect, Johansen hints at a possible outcome of a free association. Johansen remarks "The block grant, as it is today, can only be understood in connection to Denmark's claim on sovereignty over Greenland. [...] This has naturally provided Denmark with the responsibility of maintaining a standard of living in Greenland, which equals the one in Denmark. That is what the block grant is used for today: To pay for sovereignty" (Johansen, Folketinget, 2008). Thus, if a free association would be established, wherein Greenland would become independent and the sovereignty of Greenland would be transferred from Denmark to Greenland, the block grant would become void, since Denmark, according to Johansen, no longer would have such obligations to Greenland. However, such an arrangement could continue depending on the degree of sovereignty of which is discussed. If Denmark were to carry out the defence of Greenland's borders and surveillance of the airspace, it could be argued that Denmark to some degree were enjoying sovereignty over Greenland.

The aspect of representation abroad conflicts to some degree with Johansen's remarks made in 2004, where he viewed the development of Greenlandic foreign policy capabilities as one of the three next steps towards independence. Foreign policy capabilities include, but are not limited to, representation of staff in other countries on embassies or consulates. If Denmark were to be paid for representing Greenland abroad, the need for the development of Greenlandic foreign policy capabilities would be smaller. However, it would not be prudent to imagine a scenario, wherein

Greenland carries out some foreign policies of their own, receives assistance in other scenarios and lastly leaves the responsibility to Denmark.

The last of Lars-Emil Johansen's remarks on free association was made in 2009, the day before the Self-Government Act came into force. Johansen remarked on the coming Self-Government and future independence. He noted "[...] free association presents a voluntary option for Greenland and Denmark based on a treaty to conduct a joint foreign- and security policy as equal partners, and there could be advantages in cooperating on new terms on the educational policy" (Johansen, feature, 2009). As in 2004 and 2008, Johansen presents free association as an arrangement in which the burden of foreign- and security policies can be shared with Denmark. This time we see sharing of the policy areas, and not full control or outsourcing as in 2005 and 2008, where at first Johansen wanted for Greenland to be in control of negotiations of territory and then in 2008 for Denmark to assume responsibility of the defence and surveillance of Greenland's territory. Johansen also mentions a new cooperation on the terms of the educational policy. This has not been mentioned previously. The current arrangement, with Greenland being a part of the Danish Realm, guarantees Greenlandic citizens free education in primary school in Denmark with access to higher education (The Constitutional Act of Denmark, §76). I assume that Johansen's wish for cooperation in this field stems from the eventual loss of these privileges in the event of independence. Whether the new terms will focus on re-establishing these privileges or focus on Danish support within the Greenlandic educational system is uncertain, but a wish for future cooperation is apparent.

Two years later in 2011, the political party Siumut presented its candidates for the upcoming election in Folketinget. On this occasion the chairman of Siumut since 2009, Aleqa Hammond, presented Siumut's three political aims for the coming parliamentary period, one of which were to achieve independence in free association with Denmark (Hammond, feature, 2011). Hammond remarked, "We wish to participate in international negotiations on matters concerning our interests and not Denmark's, such as whaling and navigation in icy waters. We also seek to ensure Greenlandic participation in the Olympics and the international football association's tournaments – under our own name and flag" (Hammond, feature, 2011). Thus, Hammond follows in the same path as Johansen in regards to Greenland carrying out its own foreign affairs, with the ability to independently enter into international negotiations and in the extend of this, to enter into

international organisations. Whether this will be possible would depend on the extent of sovereignty within free association with Denmark.

Moreover, Hammond noted that Siumut still wished to cooperate with Denmark on topics such as the royal family and defence- and foreign policy (Hammond, feature, 2011). This ties into the above of Denmark acting in assistance on request in terms of foreign affairs, as well as Johansen's notions of Denmark carrying out the defence and surveillance of Greenland's territory. However, the notion of cooperation on the royal family is new. Cooperation would presumably mean, that the Danish royal family would continue to act as the head of state within Greenland, even though Greenland would gain independence of the Danish Realm of which the royal family retains the title, head of state. The continued function of the Danish royal family as Head of State in Greenland could have an effect on the Greenlandic identity, but also on formal legal matters that would make Greenland and the Danish Realm a part of the same constitutional entity.

From the onset of 2014, the primary political goal for Siumut was to "[...] work towards an independent state" (Siumut, party programme, 2014). In the party programme of 2014-2017, it was noted

"Siumut's goal is – with Free Association as the model – through mutual respect and cooperation to work towards increased independence within the Danish Realm. Siumut believes that the society possess a right to be master in one's own house, whereas the society's right to decide control its own affairs must be respected. Siumut works determined towards our country becoming a state, where we are able to take full responsibility of our own affairs in our country – where no one from the outside possess supremacy over us" (Siumut, party programme, 2014).

Thus from 2014 until 2017, free association serves as the official and declared framework for increased independence, wherein Greenland would regain control of its own affairs with full supremacy. This notion serves as the clear guideline for the remarks in the coming years made by politicians from Siumut.

Following Siumut's campaign for seats in Folketinget at the Danish national election, candidate Doris Jakobsen was elected from Siumut. In 2014 she held a speech during the opening debate in

Folketinget, wherein she promoted the notion of free association. Jakobsen reiterated the efforts previously made by members of Siumut to raise awareness on free association. In free association Greenland would attain the right to act independently in international connections such as the Olympics and the International Whaling Commission. She remarked:

“It is a model, where we can maintain the Danish royal family in Greenland. It is a model, where we can maintain the cooperation with Denmark on defence- and foreign policy. It is a model, where we would be able to give the Greenlandic people a sense of liberation in terms of identity, as the repeated wishes for an independent Greenland, first and foremost, is an expression of – without the solidarity with Denmark ends” (Jakobsen, Folketinget, 2014).

Jakobsen reaffirms several previous notions of Siumut politicians, and it is becoming easier to trace aspects of free association that are reoccurring. I would argue that these reoccurring aspects of free association form a common notion on free association from within the party in line with the party programme. It even goes so far as Jakobsen contributing with nothing new to the perceived possibilities within free association. Instead, she reiterates the notions of the royal family, those on defence and security affairs and lastly the notion of free association being in-between independence and integration. However, this serves as a way of reaffirming Siumut’s overall goal of promoting free association as the next step in the path towards independence.

In 2015, Aleqa Hammond, no longer chairman of Siumut, but instead member of Folketinget raised awareness to the concept of free association in her speech during the opening debate in Folketinget, just like Jakobsen had done the year before. Hammond reiterated the notions of Jakobsen the year before: to be able to use the Greenlandic flag in the Olympics, to negotiate whaling quotas in the International Whaling Commission without having to consider the European Union, to participate in football tournaments and other international sports activities, but also to be able to demand insight into military deals concerning Greenland (Speech, Aleqa Hammond, Folketinget, 2015, p. 4). As a new addition Hammond commented on being able to demand insight into military deals concerning Greenland. The demand for insight plays into a key aspect of free association; the need for communication and consultation in matters overlapping between foreign affairs and security affairs.

Hammond further remarked, “[...] the combination of the dream of independence for the Greenlandic people and the continued, close life together with Denmark is called free association. It is about finding a dignified future of common understanding and equality” (Hammond, Folketinget, 2015). The common understanding in free association could be related to shared values and standards within the arrangements between Niue, the Cook Islands and New Zealand. This notion will be expanded on in chapter 9.

In the spring of 2016, Hammond, in a feature in the Danish newspaper *Politiken*, once again promoted free association, this time as the direct successor to the Self-Government Act. New revenue sources in the mineral sector and a Danish lack of responsibility in the rescue service and work environment inspections prompted Hammond to conclude, “Denmark has for too many years taken the Danish Realm for granted, meanwhile they continue to betray their responsibility in Greenland” (Hammond, feature, 2016). To Hammond this proved that Denmark could be replaced by some other state as a partner. In order to overcome this problem of lacking responsibility from Denmark, Hammond suggested that negotiations of a free association agreement between Denmark and Greenland would not only address areas of responsibility, but also the levels of service Greenland can expect from Denmark (Hammond, feature, 2016). This ties into the above notion of Denmark retaining responsibility for security affairs, while Greenland would retain responsibility in foreign affairs. It also concerns the method of which the free association between Greenland and Denmark should be formulated.

Moreover, Hammond noted that Greenland is in need of a “bigger power” to take the responsibility of rescue services in the future, and that the area of defence could possibly be covered through a NATO membership, based on the Icelandic model. Hammond further suggested, that it is a possibility for Denmark and Greenland to enter into a temporary agreement of for instance 30 years, which would correspond to investments in new defence equipment (Hammond, feature, 2016). Such an agreement would somewhat correspond to the agreement between the United States and its associated states, however, the comparison to the Icelandic model would suggest full independence without a connection to a formally associated state or principal. It seems as though Hammond is in-between the two options, something that is diverting from the previous rhetoric of Siumut politicians, though it should be noted that the article is written in the context of injustice between Denmark and Greenland, which would explain a more

aggressive rhetoric towards independence, and a following severance of Greenlandic-Danish relations, as a threat (Hammond, feature, 2016).

Hammond further noted, “This [the establishing of the temporary deal of 30 years] would naturally require that Denmark could see the strategic interest in keeping Greenland in the Danish Realm. The economic potential is high. In the future, Greenland will also be in need of labour and commercial partners from the outside” (Hammond, feature, 2016). Thus, Hammond aims to utilize a perceived position of strength, in which Greenland, with a high economic potential, would be able cut others in on the cake, while receiving other benefits of the partnership. Therefore, Hammond views Greenland as not only of strategic interest in terms of military aspects, but also in terms of economic aspects, something Denmark can take part of if they chose so.

Chapter 8: Danish contentions in free association

In the two previous analyses, the practice of free association in the cases of the United States and New Zealand were uncovered along with an analysis of Greenlandic politicians’ wishes in free association. In order to determine points of contention, and how these could be cleared away, if Greenland and Denmark were to convert its relations to free association, I will have to carry out an analysis of Danish perspectives on free association. As the debate of free association primarily has taken place in Greenland, in relation to the independence debate, as well as free association being a type of relationship pushed by Greenlandic politicians, and not Danish politicians, there is less material on Danish perspectives on free association. The analysis will be based on the Danish constitution, remarks made by the Danish Prime Minister Lars Løkke Rasmussen, as well as material from papers produced by the Danish Ministry of Foreign Affairs and the Danish Ministry of Justice in the Greenlandic-Danish Self-Government Commission’s work, primarily addressed in the workgroup regarding constitutional and international law. This material has to be viewed in the context of it often serving as a response to Greenlandic statements, more than it is an isolated reaction. Therefore, this material is adequate for establishing the Danish attitudes towards Greenlandic independence and free association, but it does serve more than adequately as an indication of the Danish response to the Greenlandic statements and wishes relating to independence.

8.1 Citizenship:

Some provisions within Danish law are important in regards to the grounds for whether Danish citizenship in a free association relationship between Greenland and Denmark will continue to be available for Danish citizens residing in Greenland. At the moment, the most important piece of law is from the Danish constitution:

“This Constitutional Act shall apply to all parts of the Kingdom of Denmark” (The Constitutional Act of Denmark § 1).

This provision ensures the legality of the Danish Constitution and the associated laws’ effect in Greenland, due to Greenland being part of the Kingdom of Denmark. This also entails that Danish citizens residing in Greenland are in possession of Danish citizenship, because Greenland is part of the Kingdom of Denmark. Moreover, in the Act on Danish Nationality several reasons for achieving Danish citizenship is declared. The following provision is of interest for the thesis:

“A child is a natural-born Danish national if born to a Danish father or a Danish mother. Where the child's parents are not married and only the father is a Danish national, the child will only acquire Danish nationality if born within Denmark” (Consolidated Act on Danish Nationality § 1.1).

In the above, it is noted that a child born of a father and mother with Danish citizenship, becomes a Danish citizen itself on birth. This enables the children of current Danish citizens in Greenland to pass on their Danish citizenship to their children.

If this relation were to be altered, as would be the case if Greenland chooses to invoke their right to independence, then the Danish Constitution would cease to apply for Greenland. Therefore, new provisions would have to be established if Danish citizenship would continue to be a right for Danish citizens that continue to reside in Greenland. As some of the previous analyses have shown, such provisions have been made in other cases, however these will be dealt with intensely in the discussion in chapter 9. It should however be noted that the previous relations between Iceland and Denmark could be of some interest. In the following provision a solution to the severance of Danish-Icelandic relations is noted:

“Citizens of Iceland who enjoy equal rights with citizens of Denmark under the Danish-Icelandic Union (Abolition), etc., Act, shall continue to enjoy the rights of Danish citizenship under the provisions of the Constitutional Act” (The Constitutional Act of Denmark § 87).

The solution to the citizenship for Icelandic citizens that had previously been Danish citizens were to continue this relation under the provisions of the Danish Constitution, however, children of these citizens would not gain Danish citizenship. This created a situation, wherein the Danish citizenship would be phased out over time in Iceland, as these previous Danish citizens, now Icelandic citizens, eventually would foster no children with Danish citizenship to continue the cycle.

8.2 Foreign- and security policy

In regards to the notions made by the Ministry of Foreign Affairs and Ministry of Justice in the Greenlandic-Danish Self-Government Commission’s work, primarily addressed in the workgroup regarding constitutional and international law, several aspects of free association are addressed, mainly in relation to whether such an arrangement would be fitting in the Self-Government. No certain officials made these notions in different papers.

On the establishment of the Self-Government, the Ministry of Justice noted:

“The mandate entails that the commission’s motion for how the Greenlandic authorities can acquire additional competencies must be on the grounds of the constitution applying to Greenland” (Ministry of Justice, 2005, p. 3).

This had the effect that a possible free association agreement would have to be based on the constitution applying to Greenland, which would be constitution applying to the entire Danish Realm. The Greenlandic authorities formulating their own constitution circumvent this aspect today. However, the key difference is whether or not this new constitution will be separated from the current constitution of the Danish Realm or whether it will be within the limits of the constitution of the Danish Realm. In this regard the Ministry of Justice affirmed:

“Such a “free association” agreement would on the Ministry of Justice’s interpretation not be able to be implemented without either a change in the constitution or Greenland

stepping out of the kingdom in accordance with the procedure in the constitution § 19” (Ministry of Justice, 2005, p. 3).

Thus the possibilities for establishing a free association agreement depends on the constitution of the Danish Realm being changed, as happened in 1953, or Greenland invoking independence. Therefore it was concluded, it would be outside the mandate of the commission to establish a free association agreement (Ministry of Justice, 2005, p. 3).

Even though free association was deemed unviable as the framework for a new agreement between Greenland and Denmark, the concept was discussed to some lengths before this conclusion was reached. In these discussion several perspectives on free association was accounted for. In the papers produced by the Danish Ministry of Justice and Ministry of Foreign Affairs, some concerns existed regarding the concept of free association as a concept wherein areas of responsibilities at times were ill defined in regards to who possessed jurisdiction and at what times.

The Ministry of Justice regarded free association as “[...] treaties between independent subjects of international law with their respective constitutions, where the associated state cooperates with the mother state, which continue to manage certain affairs” (Ministry of Justice, 2005, p. 2) and that “The Danish Constitution applies to all parts of the Danish Kingdom” (Ministry of Justice, 2005, p. 2). Therefore, as long as Greenland is part of the Danish Realm, they will also be subject to the Danish Constitution. The Ministry of Justice regarded the existence of two constitutions as a prerequisite for a free association agreement, and Greenland would remain a part of the Danish Kingdom without a constitution. In this regard, the Ministry of Justice notes that:

“If a possible “free association” agreement between Greenland and Denmark [...] would be based on two different constitutions for Greenland and Denmark, then, in the question of Greenland, the [Danish] constitution would have to be replaced by some other treaty” (Ministry of Justice, 2005, p. 3).

This enables the current establishment of a Greenlandic constitution to serve as the foundation for a possible free association agreement between Denmark and Greenland. It was further noted, “[...] every agreement must be evaluated and developed from its own historical conditions and

special circumstances” (Ministry of Justice, 2005, p. 2). This enables a Greenlandic-Danish free association agreement to be unique in regards to the exact affairs being transferred between the two parts. The choice of these exact affairs would therefore likely be made on the basis of historical conditions and special circumstances. In terms of Greenland, such a special circumstance could be a great many things. One such could be the sheer size of Greenlandic territory and the related expenses in patrolling such a territory, if Greenland were to assume this responsibility. However, no specific mention is made of what ‘historical conditions and special circumstances’ may entail in terms of transfer of responsibilities, but these aspects would without a doubt possess a prominent position in negotiations on a free association agreement.

Chiefly, the Ministry of Justice’s concern was with other state’s understanding of a possible free association agreement:

“[...] it is important that the way Denmark and Greenland would choose to arrange their interrelation does not create any doubt among other subjects of international law of the Kingdom of Denmark’s ability to fulfil its obligations in international law” (Ministry of Justice, 2005, p. 2).

This concern is related to the division of areas of responsibility in a free association agreement. If there are come concerns, as is the case in the relations between New Zealand and its associated states, which will be detailed in the below, then the proposal for a certain free association agreement may not be accepted by Danish negotiators. This is evident in the below notions from the Danish Ministry of Foreign Affairs.

In discussing free association, the agreement between the Cook Islands and New Zealand was touched upon. In regards to the conduct of foreign political affairs and the degree to which these could be carried out, the Ministry of Foreign Affairs perceived Greenland to be in the possession of a higher degree of sovereignty.

“[...] New Zealand’s acting on the behalf of Cook Islands in foreign policy questions happens on the basis of concrete instructions in accordance with § 5 in the Cook Islands’ constitution – in contrary, the Danish/Greenlandic model enables Greenlandic actions

internationally on the grounds of a general authorization from the Danish government by virtue of the constitution's § 19" (Ministry of Foreign Affairs, 2006, p. 1).

In the eyes of the Ministry of Foreign Affairs, the free association relationship between New Zealand and the Cook Islands provided the Cook Islands with fewer options in their actions on the international scene, compared to Greenland before the Self-Government Act became effective. They went on to argue, "[...] the Danish/Greenlandic model moves further as it is based on the delegation of exclusive competency to Greenland on a number of specified areas" (Ministry of Foreign Affairs, 2006, p. 1). Thus, the provision of Greenland having exclusive competency on some areas were deemed to be a sign of a higher degree of sovereignty than the case of the Cook Islands, where New Zealand retains the de jure responsibility for Cook Islands' external relations.

In this relation, some concerns were voiced in terms of adapting an agreement similar to that of the Cook Islands and New Zealand. The primary concern was regarding the de jure degree of sovereignty between the Cook Islands and New Zealand, and in this regard the division of responsibilities. Here it was noted:

"It can be difficult for other actors on the international stage to determine with certainty who represents whom and who is responsible for what in any case. [...] On the one hand, the Cook Islands is not an independent state. This would require changes in the New Zealand and Cook Islands' constitutions. On the other hand, the two countries have established that the Cook Islands in its relations to the international community acts as a sovereign and independent state" (Ministry of Foreign Affairs, 2005, p. 4).

Thus, according to the Ministry of Foreign Affairs, the Cook Islands not retaining full sovereignty from New Zealand creates confusion on the international stage. Mininnguaq Kleist, advisor to the chairman of the workgroup on constitutional and international law, disagreed with these views, however his counterarguments were dismissed by the Ministry of Foreign Affairs and not included in the final remarks made on the concept free association (Ministry of Justice, 25. November, 2005, p. 1). Kleist noted, that:

"The haziness regarding who acts on the behalf of who and who is responsible for what is merely a haze on the surface if you only focus on the constitutions. An enquiry to the

correct authorities in New Zealand and the Cook Islands will bring clarity to this” (Kleist, 2005, p. 3).

In the eyes of Kleist, there was a clear difference on the de jure and de facto level. This difference was of no concern to him, as it could be settled easily by contacting authorities in either New Zealand or the Cook Islands. Further, this difference between de jure and de facto responsibilities was evident in Kleist’s experiences with the responsibilities being carried out:

“[...] New Zealand was constitutionally responsible for the Cook Islands’ foreign affairs, however it was in fact extremely rare that the Cook Islands requested New Zealand’s assistance on this field. Actually, Cook Islands acted entirely independently on the foreign policy area” (Kleist, 2005, p. 2).

However, as noted these remarks were dismissed by the Ministry of Foreign Affairs in the paper on the final remarks made on free association. No reasoning for this dismissal was given, however I would argue that the Ministry of Foreign Affairs found the mismatch between de jure responsibilities of New Zealand being de facto carried out by the Cook Islands to be of too great a concern, even though New Zealand would settle this case upon contact. Kleist himself noted something similar to this:

“If Greenland and Denmark were to enter into a free association agreement with each other, the formal content of the agreement, the political division of competencies [responsibilities] and the de facto effect on Greenland’s independent foreign political personality and competencies would be crucial to which position in international law Greenland would be placed in (- and develop from)” (Kleist, 2005, p. 1).

The formal content of the agreement, which corresponds to de jure responsibilities, and the de facto competencies Greenland would be responsible of would have an impact on the level in international law where Greenland would be placed. Therefore, these would be relevant not only in terms of clarity to other actors on the international scene, as was the Ministry of Foreign Affairs concern, but also in terms of establishing Greenland’s position in international law, which would relate to the perceived degree of sovereignty. Depending on the context, this would be important to ensure both for Denmark and Greenland. This will be elaborated on in chapter 9.

8.3 Economy:

As previously mentioned, the Danish remarks made on free association are sparse and most of these were made in the Greenlandic-Danish Self-Government Commission. However, in this material the economic provisions between Greenland and Denmark are not discussed further. Recently, in the annual debate on the state of the Danish Realm in Folketinget, this year held on the 23rd of May 2017, the Danish Prime Minister, Lars Løkke Rasmussen, made some remarks regarding Greenlandic independence, the Greenlandic Constitution Commission and economic relations in the event of independence. This debate was initiated on the request of the party, Dansk Folkeparti. In regards to Greenlandic independence on the basis of the newly established constitution commission the Prime Minister, Lars Løkke Rasmussen, noted:

“I cannot imagine a situation where the state’s subsidy or carrying out of responsibilities continues in a longer period after Greenland’s independence” (Rasmussen, 2017).

Thus, a Greenlandic secession from the Danish Realm would entail Denmark discontinuing the state subsidy, the block grant, and the Danish state carrying out any responsibilities in Greenland. Obviously, Rasmussen is clear in the consequences of Greenlandic independence, but whether a free association agreement is included in this notion is uncertain. Free association entails independence to delegate areas of responsibilities to a partner state, which limits the degree of sovereignty, but formal independence would continue. Moreover, if the notions made by the Ministry of Justice and Ministry of Foreign Affairs have continued to be the official view on free association, then there would be a need for clear definitions on responsibilities delegated and the degree of these responsibilities. Thus, offhand free association will result in the severance of Greenlandic ties to Denmark. This is further substantiated by Rasmussen’s following notion:

“On the basis of international law, there is no requirement for Denmark’s economic support to continue fully or partially after Greenland has achieved independence [...] In connection to negotiations with the Faroese about independence, the state offered an agreement of economic transitioning, where the state’s subsidy would be phased out after four years” (Rasmussen, 2017).

Rasmussen concludes that international law possess no requirements for the continuation of Danish economic support to Greenland after independence. Moreover, he proposes that the economic support would be phased out over a four period. In relation to this, Rasmussen notes that an independent Greenland would require a self-sustaining economy (Rasmussen, 2017). The possibility of Greenland receiving subsidies from other states than Denmark is not considered, something that cannot be ruled out entirely in the regards to the presence of the United States Thule Air Base in the context of the United States' economic provisions in their free association agreements. This point of view will be substantiated in the following chapter 9.

Finally, Rasmussen spoke on the creation of a Greenlandic constitution, and its possible outcomes:

“There is no problem in [...] operating within what you could call an identity paper, which respects that you continue to be part of the Danish Realm, then there is no problem. A challenge may arise if a constitution is made, which de facto is a constitution based on independence, and it is presented in a referendum with a delayed effective date of commencement and it is interpreted as a de facto resignation, then we are, well then Greenland is faced with the challenge of having resigned [from the Danish Realm] with the effect that Denmark is now forced to make their mind up on “How to phase out the block grant”, which at the moment consists of more than half of the Greenland public economy” (Rasmussen, 2017).

The Prime Minister perceives the establishment of a Greenlandic constitution to have two outcomes; one that fits within the constitution of the Danish realm, an identity paper, and one that is outside the constitution, which would initiate a process of Danish withdrawal of the block grant. On the basis of previous notions it must further be understood that this would also include a stop in Denmark carrying responsibilities for Greenland.

Chapter 9: Discussion of a possible free association agreement

On the basis of the above three analyses, I will discuss the possibilities of a free association agreement between Greenland and Denmark, and what such an agreement should include and consider in terms of the three focus points. There are some areas in which certain possibilities exists, and other where a free association agreement looks unlikely. In the following I will explore areas from previous cases of which there are experiences to be drawn, but the larger part will of the section will concentrate on contentions in a possible free association agreement that may prove hard to amend. These situations would, in the event of negotiations, likely result in struggles of late sovereignty games, as the notions of Greenlandic and Danish actors have shown to contain. I would argue that solutions might come more naturally if one looks to previous arrangements of free association.

9.1 Citizenship:

Several different notions are important in considering whether citizenship could be part of a free association agreement between Greenland and Denmark. First of all there are two interesting notions from the perspective of Siumut politicians. First there is the view of the Danish citizenship being a symbol of a missing Greenlandic identity in the Danish Realm and secondly there is the view of a need for a common understanding between Denmark and Greenland. The first contention can be resolved by establishing a constitution for Greenland, however, as noted by the Danish Prime Minister in chapter 8.3, this can go two ways. Either the constitution is formulated as an identity paper to fit within the current Danish constitution, and by extension to fit in the Danish Realm, or the constitution can be formulated as a constitution establishing independence for the Greenlandic people. If the constitution would enact Greenlandic independence, Denmark would revoke the economic subsidies and the tasks being carried out in Greenlandic according to the Prime Minister.

However, these statements were first of all made without a Greenlandic request for negotiations on a possible free association agreement, wherein the notion of a common understanding between Denmark and Greenland could translate into the shared values and standards between New Zealand and its associated states. Exactly this set of values was crucial in enabling the

extension of citizenship from New Zealand to its associated states, wherein the shared values and standards were on the basis of shared history as colonies and metropole. This notion could be substantiated by a Siumut wish to retain relations with the Danish royal family. This would in effect keep Denmark and Greenland in the same constitutional entity and have an effect on Greenlandic identity as being on equal footing with Denmark. The notion of shared values would however enable Denmark to withdraw the shared citizenship if these shared values and standard would be incriminated upon. The alternatives to this would be the United States relations to its associated states, wherein no citizenship is granted, but citizens of the associated states are able to travel, live, study and work. Secondly, it is likely that the Prime Minister is playing in the late sovereignty game, wherein he is trying to minimise the ability, or pace, for Greenland to achieve further sovereignty. This would be seen as a way of negating the Danish Realm in turning into a vehicle for making itself functionally unnecessary, or at least delaying the speed at which this process is undertaken. Therefore, he could at first deny any alternatives to full independence or the continuation of the current relations, but later be persuaded to enter into such negotiations. The suggestion of establishing a fixed-term agreement exists in between these scenarios, where the current residents in Greenland would retain their citizenship, but the children of these, in effect, Danish citizens would not inherit the Danish citizenship, but instead gain Greenlandic citizenship.

In the event of negotiations it would be important to keep an eye out for the possible haziness of responsibility. This is valid for all three focus points, but in regards to citizenship this would relate to the responsibilities of Denmark in international law. There would need to be a clear difference in the de jure responsibilities and the de facto responsibilities as well as who would carry out which in the agreement. This aspect would favour the establishment of a free association agreement similar to that of the United States and its associated states, wherein the content of citizenship is extended, without the citizenship itself, and therefore responsibilities in international law, being exchanged. This method could also negate depopulation of Greenland, as the lack of citizenship would deny the reference to Danish standards of living, which would be freely available in Denmark.

9.2 Foreign- and security policy:

In regards to foreign- and security policy aspects of a free association agreement between Greenland and Denmark, several difficult situations may arise in negotiations. A central notion regarding the conduct of foreign- and security policy relates to the de jure and de facto responsibilities laid out in the free association agreement. The Siumut politicians conveyed a wish for a joint foreign- and security policy. In this regard the differentiation between de jure and de facto responsibilities would determine a great many aspects. First of all it would determine Greenland's ability to gain membership of international organisations, as it was evident from the cases of the United States and New Zealand that if de jure responsibility of foreign policy resided with the associated state, as was the case with the United States, then the associated state would be able to gain membership of international organisations such as the United Nations.

The above is especially important in the context of the Siumut politicians reiterating the wish for joining organisations such as the United Nations and entering into the Olympics and international football tournaments under the Greenlandic flag. Therefore it would be necessary to clearly state that the de jure responsibility of foreign policy resides in Greenland. In order to cooperate on this area, a provision could be included wherein Denmark would be able to assist Greenland on a specific request or Denmark receiving the responsibility of assisting Greenlandic citizens abroad. Another aspect of foreign policy support could be that of promoting the international personality of Greenland, however this was exemplified by New Zealand, who retained de jure responsibility of its associated states. Therefore, for the sake of avoiding any haze in regards to responsibilities it could be necessary for Greenland to carry out this responsibility without assistance. In line with the international organisations, the Danish authorities heavily favoured the importance of de jure responsibilities over de facto responsibilities as the notions of Mininnguaq Kleist on the relations between New Zealand and its associated states were rejected as being viable in the Greenlandic-Danish Self-Government Commission.

The importance of de jure responsibilities over de facto responsibilities were exemplified through the United States retaining the veto power over its associated states' foreign policies, if any foreign policy actions would clash with strategic security interests of the United States. This could also be a concern of the relationship between Greenland and Denmark, as Greenland has retained

strategic military interest since the advent of the Cold War (Henriksen & Rahbek-Clemmensen, 2017, p. 2). This would first and foremost relate to the United States Thule Airbase, which is a part of the US national missile defence shield, just as the Kwajalein Atoll is. Whether this parallel would prompt the US to be interested in a separate agreement with Greenland or whether this would be under the responsibility of Denmark if they retained the responsibility of security in Greenland am I only able to speculate on, however it is very likely that this aspect would be a major point of contention between Greenland and Denmark, as several events relating to Thule has strained the relations previously. This would also relate to the late sovereignty games being carried out by the Danish Prime Minister, depending on the Danish strategic military interest in this responsibility. The aspect of US entering into a separate agreement with Greenland after the event of independence has not been explored in the thesis, but it would be worthwhile to discuss this possibility to some extent.

An example of the responsibilities in foreign- and security policy crossing each other would be the contesting of Hans Island. Here strategic security interests would surely be part of the foreign political response, and which area would trump the other would depend of the exact free association agreement. However, if a similar veto power would be delegated to Denmark, as was the case of the United States, then the responsibility would surely reside with Denmark. This notion should also be considered in relation to a Siumut politician demanding that Greenland should be able to gain insight into military aspects related to Greenland. Once again interests regarding strategic security interests may collide, as it would not necessarily be possible to ensure a complete severance of strategic interests based on geographical locations. Both of these concerns were exemplified by the United States denying access to a Taiwanese ship in the Marshall Islands due to its one-China policy. Here the US may have chosen not to disclose information as to why the ship was turned away, if the one-China policy was more controversial. This notion ties into the general defence of Greenlandic territory. This is especially relevant in terms of the current Greenland bids, made by Denmark, on large seabed territories, which includes the North Pole, that are currently contested by both the United States and Russia (Østergaard, 2015, p. 208). However, this parameter of territorial defence has not been included in the thesis, as it was of no relevance to the associated states of New Zealand and the United

States, and there was no mentioning of it by any Danish or Greenlandic actors. Nevertheless, it would be an aspect, which would have to be addressed in terms of responsibility of security.

It was also suggested by a Siumut politician that a free association agreement could be of a temporary character of 30 years. Such an agreement would correspond to the agreements between the United States and its associated states, wherein the Compacts of Free Association are reviewed periodically. This would enable negotiations on transfers of areas of responsibility between Greenland and Denmark. This would increase the dynamic character of the relationship and enable Greenland to retain higher degrees of sovereignty on the basis of responsibility over an increased number of state functions. However, it would also enable Denmark to phase-out their responsibilities and in general it would create a more unstable relation between the two states, wherein terms agreed upon could be changed under the next negotiations. This provision could however be negated to some degree by the existence of a common understand, or shared values, towards the free association agreement. A last notion of caution would be that of provision within the free association agreement continuing for a period of time after the termination of the agreement. This is the case with the United States and its associated states and is primarily concerned with the strategic interest in the states. Depending on the Danish interest, this could be included in the agreement, but it would hinder the degree of sovereignty Greenland would experience.

9.3 Economy:

When seeking to establish notions of possible solutions to contentions on the economic aspects in a free association agreement between Greenland and Denmark, it is important to consider the absolute amount of subsidies being transferred from Denmark to Greenland in contrast to the cases of associated states to New Zealand and the United States. Where Greenland is secured a block grant of 3.44 billion DDK annually, none of the associated states to New Zealand or the United States are able to cross a billion in total subsidies annually. Therefore, the grant which Greenland receives is remarkable larger than those in the free association agreements, and this notion may have to be incorporated into a future agreement, wherein eventual economic subsidies would be smaller than the current Danish block grant. Related to this is the freedom in which the Greenlandic government are able to spend these subsidies from Denmark. This would

first of all relate to a lack of a development plan, inspired by the United States, which will be elaborated on in the below, but it also relates to the tradition of law. In this regard it has been shown that the two examples of the United States and New Zealand entering into free associations are very different, with the United States establishing large amounts of clearly defined law material, while New Zealand relies on less formal documents of understanding. Although in both cases Acts, or Compacts, of Free Association are employed, the path of which Greenland and Denmark would pursue, would influence the degree to which levels of service could be addressed.

According to a Siumut politician, the block grant pays for Denmark's sovereignty over Greenland and therefore if this grant would be phased-out, Denmark would be able to claim no degree of sovereignty over Greenland. However, as the notion of late sovereignty focus on the relative size of sovereignty through delegation of responsibility of state functions, Denmark may retain some sovereignty. In this example, the economic aspect could be reinstated if Denmark were to pay for supply and maintenance of military and security related installations in Greenland. This would however have to be coupled with a Danish interest in maintaining the security in Greenland, as was the case for the United States and its relations to its associated states, where the Kwajalein Atoll was the best example. The US also paid compensation for the use of land, however this would probably not be valid demand in Greenland, as the respective differences in size between Greenland and the associated states of the United States are quite staggering. However, Siumut politicians were open-minded to continued commercial relations with Denmark, as Greenland would be in need of commercial partners. This is interesting, as Greenland could provide a case wherein both parties in the free association agreement could obtain substantial economic revenue, in contrast to the free association agreements of New Zealand and the United States, where the metropolises economic relations primarily are characterized by expenditures.

The biggest contention in regards to economic aspects between Denmark and Greenland in a free association agreement would be the Danish Prime Minister's comments of Greenlandic independence. As mentioned, he noted that Denmark would terminate its subsidies and start phasing out the block grant, if a constitution was deemed to seek independence and not establish a Greenlandic identity within the Danish Realm. It was further noted, that Denmark would have no responsibilities of continuing the economic support of Greenland in the event of independence

according to international law. However, if Denmark were to extend citizenship to Greenland, then Denmark would retain the responsibility of these citizens residing in Greenland. This would require Denmark to maintain a standard of living, as was the case in New Zealand and its associated states, where the subsidies, according to the scholar Quentin-Baxter, may be indefinite.

A possible solution could however be that of a trust fund, as the United States would introduce after 2023 and New Zealand was preparing for, to which Denmark would transfer money into for a number of years after which Greenland would have to sustain itself through its own economy and subsidies from the trust fund. This could be coupled with the Danish Prime Minister's suggestion of a phase out over a four-year period, as was offered the Faroe Islands, however a longer period would possibly be required, as was the case with the United States. A solution similar to the United States would be to lower the block grant annually and increase the funding into the trust fund of the same amount for a negotiated period after which the direct economic support would cease and be replaced by the trust fund funding. The spending of the trust fund could hereafter be negotiated on the basis of a development plan that would be reviewed annually, in which the areas of spending would be designated, as is the case with the associated states to New Zealand and the United States, on areas such as development of infrastructure, educational and health facilities and government assistance.

Chapter 10: Conclusion

The thesis set out to investigate the following problem statement:

Would it be possible to accommodate Greenland's wish for independence if Denmark and Greenland were to venture into a free association agreement? Which points of contention would likely arise between the two in such an arrangement and could these be cleared away?

In summary, it would be possible to accommodate Greenland's wish for independence in a free association agreement with Denmark. The conceptual framework of the United Nations on free association enables a wide variety of specific agreements to be title free association, and therefore all of Greenland's wish could potentially be granted in such an arrangement. The important aspect was however on the agreement being established with Denmark and in this regard several contentions exist. Central is the notion an independent Greenland continuing in having close relations to Denmark. This arrangement would not be possible within the Danish Realm, but the late sovereignty games carried out by Slumut politicians and Denmark would enable a higher degree of Greenlandic sovereignty. This sovereignty could be increased on the three focus points of the thesis; citizenship, foreign- and security policy and economy. The majority of the inspiration came from states in free association with the United States and New Zealand, where creative solutions had been employed to accommodate specific needs. Key points of contention between Greenland and Denmark, which would have to be negotiated in order to be cleared away, would be extension of the rights attained in Danish citizenship to Greenlandic citizens, while making an effort in avoiding confusion on the two states' responsibilities in international law, as well as the focus on Greenland's de jure, and de facto, responsibility of their own foreign policy in order to be eligible for membership in international organizations, with Denmark on a consulting basis, while Denmark, on the other hand, could carry out the responsibility of security in Greenland, to which the degree would depend on Danish strategic interests in Greenland, and finally the downsizing and phasing out of the block grant into a trust fund to supplement the Greenlandic economy would be able to accommodate the Greenlandic wish for continued economic relations as well as the Danish wish to phase out this relation after Greenlandic independence.

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Appendix:

Appendix 1:

UN resolution 567 of 1952

II. Factors indicative of the free association (whether in a federal or unitary relationship) of a territory on equal status with other component parts of the metropolitan or other country

A. General

1. Political advancement: Political advancement of the population sufficient to enable them to decide upon the future destiny of the territory with due knowledge.

2. Opinion of the population: The opinion of the population of the territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

3. Geographical considerations: Extent to which the relations of the territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles.

4. Ethnic and cultural considerations: Extent to which the population are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. Constitutional considerations: Association (a) by virtue of the constitution of the metropolitan country or (b) by virtue of a treaty or bilateral agreement affecting the status of the territory, taking into account (i) whether the constitutional guarantees extend equally to the associated territory, (ii) whether there are constitutional fields reserved to the territory, and (iii) whether there is provision for the participation of the territory on a basis of equality in any changes in the constitutional system of the State.

B. Status

1. Legislative representations: Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. Citizenship: Citizenship without discrimination on the same basis as other inhabitants.

3. Government officials: Appointment or election of officials from the territory on the same basis as those from other parts of the country.

C. Internal constitutional conditions

1. Suffrage: Universal and equal suffrage, free periodic elections by secret ballots, freedom of choice of electoral candidates.

2. Local rights and status: Equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country.

3. Local officials: Appointment or election of officials in the territory on the same basis as those in other parts of the country.

4. Internal legislation: Complete legislative autonomy of the territory, by means of electoral and representative systems, in all matters which in accordance with the normal terms of association are in the case of non-unitary systems, not reserved to the central government.