

**STATEMENT  
OF  
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**BEFORE THE  
HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON INSULAR AFFAIRS**

**REGARDING  
CURRENT ECONOMIC, SOCIAL AND SECURITY CONDITIONS  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**April 19, 2007**

Madam Chairwoman and members of the Committee, thank you for the opportunity to testify on the important issues facing the Commonwealth of the Northern Mariana Islands (CNMI). I come before you today wearing at least two hats: As Deputy Assistant Secretary of the Interior for Insular Affairs, I am the Federal official that is responsible for generally administering, on behalf of the Secretary of the Interior, the Federal Government's relationship with the CNMI. I also serve as the President's Special Representative for consultations with the CNMI on any matter of mutual concern, pursuant to Section 902 of the U.S.-CNMI Covenant. In fact, I was in Saipan last month for Section 902 consultations with CNMI Governor Fitial and his team.

I testified before the Senate Committee on Energy and Natural Resources in March 2006 about the very difficult economic and fiscal challenges that the CNMI was facing as its only two major private sector industries, garment manufacturing and tourism, were facing significant declines at the same time. The situation has changed since then. It has gotten worse.

The most compelling challenge that the CNMI faces today is how to deal with a deepening economic crisis that has triggered a growing fiscal crisis. Both of the CNMI's major industries continue to decline rapidly and simultaneously. Between 2000 and 2006, garment sales declined 49.5 percent, from \$1 billion to \$527 million. According to the CNMI Department of Finance, garment makers contributed, directly and indirectly, 37.9 percent of general fund revenues in fiscal year 2000. In fiscal year 2006, that share was down to 25.1 percent, and it is headed down still further since garment factory closings continue. In 2000, there were 34 holders of garment making and shipping licenses in CNMI. The closure of Saipan's largest garment factory in December 2006 caused the loss of approximately 1400 jobs, and brought the number of garment factories remaining on Saipan down to 19. Two more garment factories, with a total of

approximately 400 employees, closed at the end of last month. We expect two additional factories, with a total of over 550 employees, to close in June or July.

The CNMI's other major industry, tourism, is also experiencing troubling declines. Just as the industry, dependent more heavily on Japan than it is on any other market, was recovering, Japan Airlines (JAL) discontinued flights to the CNMI in October 2005. This was a major setback to the CNMI's tourism industry because JAL carried 40 percent of all Japanese tourists to the CNMI and 29 percent of all tourists to the CNMI. Although Northwest Airlines initially replaced some of the Japan Airlines flights cut in 2005, it recently cut several flights and is planning to downsize the aircraft used for its daily flight from Narita, Japan, by September this year. Tourist traffic was down 16 percent during 2006, and tourist levels will not recover if arrival capacity continues to decline. The tax contribution of tourism to the CNMI treasury cannot be measured as directly as that of garment manufacturers. However, it is reasonable to say that tourism is the only other major source of income and taxes in the CNMI.

The simultaneous decline of the CNMI's only two major industries has caused government revenues to decline sharply, dropping approximately 25 percent from \$221.2 million in 2004 to a projected \$165.8 million for the current fiscal year. Continued declines of this magnitude would cast doubt on the CNMI government's ability to remain solvent and to provide even the most basic critical services to CNMI residents.

I would like to also address the labor situation in the CNMI. Much has transpired since Congress began to take a hard look at CNMI labor conditions in the 1990s. The following are examples of the significant progress that the CNMI government has achieved in recent years:

- The independent Garment Oversight Board has been in place since 2003 as a result of a class-action lawsuit. The Board monitors compliance by CNMI garment factories with 59 standards relating to working and living conditions. The Board, which is made up of three former judges (including former California Supreme Court Justice Cruz Reynoso and former Washington Supreme Court Chief Justice Richard Guy), engaged, through December 2006, the nonprofit organizations Verité and Global Social Compliance to conduct comprehensive inspections of each factory twice a year (with additional inspections as necessary). A factory placed on probation as a result of a failed inspection loses its eligibility to sell to 26 major retailers.
- The Federal Ombudsman's Office reports that the number of complaints filed annually had been reduced by over 60% since the inception of the office in 1999: from 1221 complaints per year to 473. In recent years, the complaints generally have concerned matters less grievous in nature than those identified in the early years.
- In 2003, the CNMI government signed a Memorandum of Agreement with the Department of the Interior's Office of Insular Affairs to establish a refugee

protection system. Under the guidance of the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services, the CNMI amended its immigration statute, promulgated implementing regulations, and established a refugee protection program with financial assistance from the Office of Insular Affairs.

- Under the Memorandum of Agreement with the Office of Insular Affairs, the CNMI also agreed to cooperate with the United States to combat human trafficking. In furtherance of that goal, the CNMI enacted the Anti-Trafficking Act of 2005. That same year, the Federal Ombudsman established the Victims of Trafficking Coalition to identify persons in the community who may come into contact with trafficking victims, share information, identify resources in the community available to assist victims, and assess unmet needs. Additionally, the Catholic non-profit group, Karidat, through its shelter, the Guma Esperansa, applied for and received a \$450,000 grant from the U.S. Department of Justice to provide services to trafficking victims. A similar grant was received by the CNMI Department of Public Safety. Last year, my office provided a \$45,000 grant to support the Guma Esperansa shelter, and we plan to provide more support in the future. Recently, the U.S. Attorney's Office established the Human Trafficking Intervention Coalition.
- I would like to commend the CNMI Attorney General's Office for aggressively investigating and winning convictions in the Red Heart massage case, where club owners pressured foreign employees into prostitution. I would also like to commend the U.S. Attorney's Office for its successful prosecution of U.S. v. Zheng, a forced prostitution case.
- In 1999, 23 garment factories entered into a strategic partnership with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) that requires each participant to maintain a formal, written safety and health management system for each worksite and associated staff housing, and to establish a joint employer/employee safety and health team. OSHA credits this program with reducing the lost workday injury rate in these factories to well below the average for the industry nationwide. OSHA reports that over 44 full time health and safety managers have been hired by the garment factories pursuant to this partnership.
- The U.S. Department of Labor's Wage and Hour Division (WHD) continues to have a strong enforcement program for all applicable provisions of the Fair Labor Standards Act. For the past several years, WHD has conducted annual enforcement strike forces, stepped up litigation, and worked with the Saipan Garment Manufacturers Association to provide training on the monitoring of garment shops to increase compliance in the CNMI. In the last six fiscal years (2001-2006), WHD concluded 274 investigations of employers in the CNMI. The agency collected over \$14.6 million in back wages for approximately 10,500 employees. In addition to investigations in the garment manufacturing industry,

WHD has had enforcement cases in the construction, hotel/motel and security guard industries.

- The CNMI government has negotiated agreements with the Chinese Economic Development Association to pre-screen Chinese nationals coming to work in the CNMI, limit the fees the workers can be charged by approved recruiters, and intercede on the workers' behalf when a dispute arises; implemented secondary preference for jobless alien workers already present in the CNMI; and completed a comprehensive revision of the alien labor rules and regulations to guarantee due process rights to alien worker complainants. While the pre-screening noted above is not intended to, and does not, substitute for a visa screening process administered as a foreign affairs and national security function of the United States, it does assist in regulating the numbers of nonresident workers who come to work in the CNMI, ensuring that some minimum standards are met with respect to the qualifications of those workers, and in protecting their legal rights.
- We congratulate the CNMI Department of Labor for recently eliminating a backlog of over 3,000 labor cases that had begun to accumulate during prior administrations. This accomplishment could not have occurred without the Governor's strong commitment and a great deal of hard work by local public servants. We are proud that the staff of OIA's Office of the Federal Ombudsman was able to provide important assistance to this effort, including by translating the testimony of hundreds of workers.
- On November 30, 2006, the CNMI held a Workforce Development Summit cosponsored by the Northern Marianas College Small Business Development Center and the CNMI Workforce Investment Agency. The goals of the Summit were twofold: (1) offer an in-depth discussion of employment issues facing local residents and the public and private sectors, and (2) gather business and government leaders to discuss the CNMI employment needs with a goal of developing the local workforce to fill positions that are currently occupied by foreign employees. The Summit brought together business and government leaders to discuss the CNMI's critical employment needs so that government counseling, training, education, financial assistance, internship and placement programs could unify their efforts and maximize resources to develop the necessary resident labor talent. As a result, the CNMI is creating a demand-driven talent development action plan that will result in a higher percentage of resident workers employed in the private sector. The U.S. Department of Labor's Employment and Training Administration is assisting the CNMI with mapping their public and private resources and assets to begin development of their talent development action plan.

We give the CNMI government a great deal of credit for the progress that has been made in the last several years. A number of others deserve a great deal of credit as well, including Members of Congress who have pushed for reforms, the garment workers and their attorneys who brought the class action suit against the garment industry,

international non-profit organizations such as Verité which conduct rigorous inspections of the garment factories, and longtime workers rights advocates such as former California Supreme Court Justice Cruz Reynoso who have worked to oversee the inspection regime. We recognize, however, that the situation remains far from perfect, and we continue to have a number of concerns. For example:

- The CNMI Department of Labor still has too few experienced investigators and hearing officers to deal with the labor complaints that have been generated.
- We believe that enforcement in labor cases is hampered by an insufficient commitment by the CNMI law enforcement authorities to prosecuting or sanctioning repeat offenders.
- We are concerned about foreign attempts to influence the adjudication of particular cases in the CNMI's fledgling refugee protection program.
- We continue to be concerned about foreign nationals in the CNMI engaging in prostitution. Many incidents have been reported of young women recruited for non-existent jobs, and then coerced into prostitution. A recent, verified count of the number of trafficking victims receiving services in the CNMI puts the number at over 30, a figure that far exceeds the incidence of trafficking victims in the United States on a per capita basis.
- The CNMI's current fiscal crisis casts doubt on its ability to ensure the timely repatriation of thousands of garment workers employed by factories who may not have the resources to pay their wages in full and provide them a plane ticket to their point of hire. In addition, of the bonding companies who have a secondary obligation to pay back wages and provide tickets, a majority do not have sufficient assets to meet their obligations.

The labor situation in the CNMI is inextricably linked to the fiscal and economic situation. The most significant threat to the human rights of foreign employees in the CNMI today is the deteriorating economy. This manifests itself in a number of ways, including by depriving the government of the resources that it needs to effectively prevent, investigate and prosecute labor abuse. The closure of large garment factories places significant demands upon the local government, and simultaneously causes the government to lose revenues that it desperately needs to meet those demands and all of its other obligations. This mutually reinforcing negative cycle illustrates that while the departure of the garment industry may be in the long-term best interests of the CNMI, an immediate, abrupt departure is not. Change is necessary, but we should be wary of exacerbating a situation that is already fraught with peril.

In addition to these concerns, we remain troubled by the serious structural imbalances in the CNMI economy and in CNMI society. The CNMI remains a two-tier economy where the private sector is overly reliant on foreign employees, and where the indigenous population is overly reliant on the public sector for employment. Because of the unique

economic structure of the CNMI and the fact that approximately 50% of the residents are foreign employees, the ability to import labor is a factor that tends to depress wages in the private sector, which in turn tends to reinforce the reluctance of U.S. citizens to work outside of the public sector. There have been attempts to address this unique structural problem through local legislation, but the problem persists.

Additionally, having a large alien work force with little economic power and relatively limited legal rights has created a great risk of exploitation and abuse in the CNMI. As noted above, the CNMI has made commendable progress over the last several years in curbing labor abuse. Our experience tells us, however, that excessive reliance within the CNMI on a foreign, low-wage work force creates a risk of abuse. That risk could be overcome with a high level of effort, vigilance and resources, but it would probably be difficult to sustain such efforts under the CNMI's current fiscal and economic conditions. Perhaps we would not all have to work so hard to prevent abuse if the structure of the CNMI's economy did not give rise to such risks. And eliminating the most overt forms of abuse will not necessarily eliminate subtler forms of exploitation that arise when foreign employees have little power and a great deal to lose if they assert even the limited rights they have.

I call to your attention the unique situation of the long-term foreign employees that have become an integral part of CNMI society. A number of foreign employees have been working in the CNMI for five, ten, fifteen or more years. Many are raising children in the CNMI, and their children are U.S. citizens. These employees were invited to come to the CNMI because they were needed, they came and have stayed legally, and they have contributed much to the community. They were essential in building the CNMI economy from the ground up from what it was at the inception of the Commonwealth: a rural economy with little industry, tourism or other commercial activity. Long-term foreign employees are integrated into all levels of the CNMI's workforce and society, serving as doctors, nurses, journalists, business managers, engineers, architects, service industry employees, housekeepers, farmers, construction workers, and in countless other occupations. I hope that the Committee and the CNMI Government will keep the situation of these long-term members of the CNMI community in mind as they consider reforms to the CNMI's immigration system.

We stress, Madame Chairwoman, that the CNMI's situation in general is unique, and our discussion of the CNMI should not be extrapolated to draw observations about other economies, including that of the U.S. as a whole. The CNMI's proportional reliance on foreign labor is overwhelming when compared to that of many other economies, including the U.S. economy as a whole; foreign employees constitute approximately half of the CNMI's population. The CNMI also has the ability to admit foreign employees from low-wage economies in the region without being subject to Federal laws designed to protect opportunities for the U.S. workforce. The sheer scope and scale of the foreign labor situation in the CNMI make the CNMI a special case.

The question is not whether the CNMI's current economic structure is a good one. It is not. The question is how to help the people of the CNMI build a strong, prosperous and

just society without causing needless pain and suffering to innocent people—including the foreign employees—in the transition. The Administration is committed to working with Congress and with the CNMI’s representatives to establish a framework that will allow the people of the CNMI to build such a society. We are currently working within the Administration, with Congress and with the CNMI government to develop a concept of flexible federalization through which the Federal Government would assert control over the CNMI’s immigration system in a manner that would not cause needless economic or fiscal harm. We believe that any effort to federalize the CNMI immigration system must be flexible because of the CNMI’s unique history, culture, status, demographic situation, location, and, perhaps most importantly, fragile economic and fiscal condition. Since federalization would constitute a paradigm shift from the current system, we believe that various options for federalization should be considered carefully in order to avoid unintended consequences. We believe that such an effort should be based upon the following principles:

First, we must ensure that national security and homeland security issues are properly addressed. In a post-9/11 world, this principle must take priority over all others. Any proposal should be fully vetted by the experts at the Departments of Homeland Security, State, and Justice to ensure that it provides adequate protections for the CNMI and for the rest of the U.S.

The second principle is that, subject to the need to address compelling national security and homeland security concerns, we should minimize damage to the CNMI economy and maximize the potential for future economic growth. We must recognize that the CNMI is in a very fragile economic and fiscal condition. The Federal Government must make every effort to avoid imposing measures that could plunge the CNMI even deeper into crisis. The cash-strapped local government, which is struggling to absorb sharp decreases in revenues, is already unable to provide critical services such as water and power in a reliable fashion. If the current crisis is exacerbated, it could endanger the health, safety and welfare of innocent people, threaten the public order, and leave large numbers of foreign workers jobless and stranded.

Once the CNMI gets through the current crisis, it will have to build a sustainable economic future. This is probably an opportune moment in the CNMI’s history for the people of the CNMI to engage in a facilitated process to develop a homegrown strategic plan for its economic future. The process should involve all segments of society, and the ultimate product should be one that the large majority of the community is willing to buy in to. If the CNMI were to embark on such a process, there would not necessarily be a need for Congress to delay its effort to establish a framework for a new immigration system. We would suggest that Congress build sufficient flexibility into that framework, however, so that the CNMI’s vision for its future could be duly considered and, to the extent possible, accommodated when it is ready.

Regardless of whether such a strategic planning process occurs or what it produces, we should recognize that the CNMI’s unique circumstances should be taken into account. By controlling its own immigration system, the CNMI enjoys a competitive access

advantage—in other words, it has the ability to make it easier for certain classes of visitors to enter the CNMI than to enter the rest of the U.S. This competitive access advantage enabled the CNMI to reach out to other tourist markets after it lost a significant share of its Japanese market. It has also allowed the CNMI to consider legitimate economic opportunities that might arise from admitting students, retirees, investors and others who might not have easy access to the rest of the U.S. If the CNMI were to lose its competitive access advantage with respect to legitimate foreign visitors, it would significantly restrict the already limited range of options that the CNMI has to build a viable economy.

As part of the bargain through which the CNMI currently retains the flexibility to control its own immigration system, the U.S. seeks to insulate itself from the impact of CNMI immigration decisions by maintaining a “second firewall” between the CNMI and the rest of the U.S. Aliens seeking admission to the CNMI must be processed and inspected through CNMI immigration procedures, which could be thought of as the “first firewall.” Admission to the CNMI confers no right of admission to the rest of the U.S. Aliens seeking to travel from the CNMI to the rest of the U.S. must apply separately for admission to the U.S., and all persons traveling from the CNMI to the rest of the U.S. are inspected as if they were arriving from a foreign country (the “second firewall”). While DHS has statutory authority to inspect and determine the admissibility of aliens proceeding from all insular territories to the remainder of the United States, including those territories governed by U.S. immigration law, the “second firewall” authority is broader and more significant in the case of a territory like the CNMI which operates its own immigration system.

Even under an immigration system administered by the Federal Government, the law could provide greater flexibility to admit foreign visitors to the CNMI than is currently allowed under the Immigration and Nationality Act. This greater flexibility could be justified by the fact that the CNMI’s economic viability is arguably dependent upon having it. As with the current system, the U.S. could seek to insulate itself from any impact to the rest of the U.S. from granting greater flexibility to the CNMI by maintaining the “second firewall” between the CNMI and the rest of the U.S. Under such a scenario, aliens entering the CNMI after qualifying for special visas or visa waivers would have to qualify separately for admission to the rest of the U.S., and all persons traveling from the CNMI to the rest of the U.S. would continue to be inspected as if they were arriving from a foreign country.

We raise these ideas not as concrete proposals, but as discussion items that Congress, the Administration and the CNMI government could explore together. The underlying point here is that for the CNMI to build a viable new economy, it will likely need to remain readily accessible not only to a reasonable number of workers, but, more importantly, to customers such as tourists and students. Achieving this objective may require some degree of flexibility and creativity.

The third principle is that we must ensure that the new CNMI economy is not as conducive to worker exploitation and abuse as was the old CNMI economy. Since the



CNMI has a very limited indigenous labor pool, it is reasonable for its economy to rely to some degree on foreign workers. But the mistakes of the past must not be repeated, with a large class of politically powerless foreign employees populating the lower tier of a two-tier CNMI economy, regulated by a government without adequate resources to prevent exploitative practices.

The fourth principle is that we should carefully analyze the likely impact of major proposals before we implement them. Just as we would not perform major surgery on a patient without first performing a detailed diagnosis and medical analysis, and just as we do not build even schools or hospitals without conducting an environmental analysis or impact study, neither should we attempt to perform major surgery on the CNMI's economy and society without first analyzing the likely impact. Labeling our efforts as "reform" does not relieve us of the responsibility to carefully consider the potential consequences of our actions before we take them. This is especially true when we are dealing with an economy and society that is as fragile and potentially volatile as that of the CNMI. If we leap before we look, we could inadvertently and needlessly hurt people that we are trying to help. We should, however, be expeditious in our analysis, and not use the need to study as an excuse to delay. The people of the CNMI are eager to get on with their future.

The fifth and final principle is that we must ensure that the people of the CNMI participate fully in decisions that will affect their future. A better future for the people of the CNMI cannot be imposed unilaterally from Washington, D.C., ignoring the insights, wisdom and aspirations of those to whom this future belongs.

I was in Saipan last month as the President's Special Representative for consultations with CNMI Governor Fitial under Section 902 of the U.S.-CNMI Covenant, and heard the Governor's concerns about the effect that federalization might have on the CNMI's precarious economic and fiscal condition. The Governor and I endorsed the five principles that are outlined in my testimony today, although we are still in dialogue about how those principles should be implemented. While in Saipan, I also took the opportunity to speak with as many community groups and ordinary people as I possibly could. There is a great diversity of opinion in the CNMI, but a shared sense of anxiety about what the Federal Government may or may not do and a shared desire for their voices to be heard here in Washington. The anxiety stems from the fact that Congress is developing policy that will profoundly affect a small corner of America that many of your colleagues in Congress know little about. The members of this Subcommittee, on the other hand, possess a great deal of knowledge about the CNMI. I commend you all for your commitment to learn as much as you can about what's really happening in the CNMI today, to look beneath the negative, sensationalistic press reports to find the more complicated truth, and to listen to the diverse voices of the people of the CNMI.

I commend this Subcommittee for its plan to hold a hearing in the CNMI, and hope that some of your colleagues less familiar with the CNMI will be able to attend. Once your colleagues get to know the people of these islands, it will be difficult for them not to care about the future facing the CNMI.

I would like to make one more important point about the need for the CNMI to participate fully in decisions that will determine its future. Three years ago, I testified on behalf of the Bush Administration before the full Committee in favor of granting the CNMI a non-voting delegate to the U.S. House of Representatives. I testified about the many men and women from the Northern Mariana Islands who were fighting in Iraq and Afghanistan so that the people of each of those countries could have a democracy.

Please allow me to pay tribute to the following sons of Saipan who have been killed in action in Iraq:

- Army Sergeant Eddie Chen
- Army Sergeant Wilgene Lieto
- Army Specialist Derrence Jack
- Army Sergeant Jesse Castro
- Marine Lance Corporal Adam Quitugua Emul
- Army Specialist Leeroy Camacho

Please consider their sacrifices while we embrace the need to support the CNMI during a difficult time. The CNMI is prepared to be an active participant in our efforts to assist them in seeking a brighter future. Before considering legislation that would drastically change the lives of the people of the CNMI, we hope that Congress will consider granting them a seat at the table at which their fate will be decided.

Thank you.