

August 2008

COMMONWEALTH
OF THE NORTHERN
MARIANA ISLANDS

Managing Potential
Economic Impact of
Applying U.S.
Immigration Law
Requires Coordinated
Federal Decisions and
Additional Data





Highlights of [GAO-08-791](#), a report to congressional committees

Why GAO Did This Study

The United States enacted legislation in May 2008 applying federal immigration law to the Commonwealth of the Northern Mariana Islands (CNMI) subject to a transition period. The CNMI is subject to most U.S. laws but has administered its own immigration system, including admitting foreign workers, tourists, and foreign investors. The Secretary of Homeland Security, in consultation with the Secretaries of the Interior, Labor, and State, and the Attorney General, has the responsibility to establish a transition program. GAO was asked to review how the legislation's implementation may affect the CNMI economy, in particular the CNMI's (1) labor market, including foreign workers; (2) tourism sector; and (3) foreign investment. This report is based on GAO's March 2008 report (GAO-08-466) and analysis of data on the CNMI's labor market, tourism sector, and foreign investment.

What GAO Recommends

GAO recommends that the Secretary of Homeland Security lead other relevant federal agencies in identifying an interagency process to jointly implement the legislation and that the Secretaries of Homeland Security and Labor jointly develop strategies to obtain critical data on the CNMI labor market and foreign investment. DHS agreed with the findings and recommendations, Interior agreed with the findings, and Labor had no comments. In response to the CNMI government's concerns about the methodology and analysis, GAO clarified the report as appropriate.

To view the full product, including the scope and methodology, click on [GAO-08-791](#). For more information, contact David Gootnick at (202) 512-3149 or gootnickd@gao.gov.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Managing Potential Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data

What GAO Found

Labor market. The potential impact on the CNMI's labor market of the recent legislation applying U.S. immigration law will largely depend on decisions that the U.S. Departments of Homeland Security (DHS) and Labor (DOL) make in implementing a required permit program for foreign workers. The interaction of DHS and DOL decisions about, respectively, the number of permits to allocate annually and whether and when to extend the permit program past 2014 will significantly affect employers' access to foreign workers. However, federal agencies have not yet identified an interagency process to coordinate such decisions. Further, the agencies may have difficulty obtaining relevant data on the CNMI labor market. Given foreign workers' prominence in key CNMI industries, any substantial and rapid decline in permits for foreign workers would have a negative effect on the CNMI economy. However, federal agencies may reduce permits more modestly, resulting in minimal effects on the economy. At the same time, continuing declines in the garment industry, challenges to the tourism industry, and the scheduled increases in the minimum wage may reduce demand for foreign workers, lessening any potential adverse impact of the legislation on the economy. Although the legislation and the CNMI government have stated goals of preparing CNMI residents to replace foreign workers, factors such as the limited number of available CNMI residents may impede these efforts' effectiveness.

Tourism. Any impact of the recent legislation on the CNMI's tourism sector will depend largely on federal regulations specifying the countries to be included in a joint CNMI-Guam visa waiver program required by the legislation. For countries likely to be included in this program, such as Japan and South Korea, the impact is likely to be minimal. For countries that may not be part of the joint visa waiver program, possibly including China and Russia, applying for a visa from U.S. embassies or consulates will likely be more costly and more time-consuming than obtaining a visitor entry permit under CNMI immigration law. To the extent that any increase in the cost and time required to obtain a visa discourages tourists from visiting the CNMI, the legislation could negatively affect CNMI tourism.

Foreign investment. The recent legislation's impact on CNMI foreign investment will depend in part on DHS decisions regarding the application of U.S. nonimmigrant treaty investor status—"grandfathering"—for investors with CNMI foreign investor entry permits. However, lack of data on foreign investment in the CNMI makes it difficult to assess the likely impact of these decisions and may hamper DHS's ability to make informed decisions. Because long-term business entry permits account for a large proportion of CNMI foreign investor entry permits, more CNMI foreign investors will be grandfathered if DHS applies the status to these permit holders. Any impact on foreign investment in the CNMI will likely affect the labor market and tourism sector, and any impact on the labor market or tourism sector may also affect foreign investment.

Contents

Letter		1
	Results in Brief	5
	Background	8
	Recent Legislation’s Potential Impact on CNMI Labor Market and Economy Will Depend Largely on Federal Decisions, but U.S. Agencies Lack Needed Data and Coordination Process	24
	Recent Legislation’s Possible Impact on CNMI Tourism Depends Largely on Federal Agency Decisions	46
	Recent Legislation’s Impact on CNMI Foreign Investment Depends, in Part, on Federal Decisions, but Lack of Data Hinders Assessment of Likely Impact	55
	Conclusions	59
	Recommendations for Executive Action	60
	Agency Comments and Our Evaluation	61
Appendix I	Objectives, Scope, and Methodology	65
Appendix II	U.S. Nonimmigrant Classes of Admission	70
Appendix III	Information on the CNMI Economy	73
Appendix IV	U.S. and CNMI Fees for Foreign Workers, Tourists, and Foreign Investors	78
Appendix V	Applicability of Other Legislation Provisions to CNMI Foreign Workers	79
Appendix VI	Construction of Gross Domestic Product Simulations	84

Appendix VII	Dependents of Temporary Non-U.S. Citizens in the CNMI	90
Appendix VIII	Country Participation in Current Waiver Programs in the United States, the CNMI, and Guam	94
Appendix IX	CNMI Immigration and Labor Expenditures	96
Appendix X	Comments from the Department of Homeland Security	99
Appendix XI	Comments from the Department of the Interior and GAO's Evaluation	101
Appendix XII	Comments from the Commonwealth of the Northern Mariana Islands Government and GAO's Evaluation	105
Appendix XIII	GAO Contacts and Staff Acknowledgments	124
Related GAO Products		125

Tables

Table 1: Key Federal Implementation Decisions Related to CNMI Foreign Workers	26
Table 2: Percentage of CNMI Foreign Workers Earning No More Than Current Minimum Wage of \$4.05 per Hour	42
Table 3: Key Federal Implementation Decision Related to CNMI Tourism	48

Table 4: Comparison of Current CNMI Visitor Entry Permit Program with U.S. Visitor Visa Program, for Nonwaiver Program Visitors	51
Table 5: Recent Legislation’s Likely Impact on Tourists from Japan, South Korea, China, and Russia	53
Table 6: Key Federal Implementation Decisions Related to CNMI Foreign Investors	56
Table 7: The CNMI’s Fiscal Condition	77
Table 8: Mean Number of Children in Household by Immigration Status of Head of Household, 2005	90
Table 9: CNMI Division of Immigration Expenditures for Fiscal Year 2007	96
Table 10: CNMI Department of Labor Expenditures for Fiscal Year 2007	97
Table 11: Federal Expenditures on CNMI Division of Immigration and CNMI Department of Labor Activities for Fiscal Year 2007	98

Figures

Figure 1: CNMI Garment Exports to the United States, 1995 to 2007	11
Figure 2: Number of Visitor Arrivals to the CNMI, 1990 to 2007	12
Figure 3: Industry Breakdown of CNMI Workforce by Immigration Status, 2005	15
Figure 4: Citizenship of CNMI Workers	16
Figure 5: Recent Federal Immigration Legislation’s Provisions for Foreign Workers, Tourists, and Foreign Investors in the CNMI	21
Figure 6: Illustrations of Alternative DHS Decisions Regarding Annual Reduction in CNMI-Only Work Permits for Foreign Workers	28
Figure 7: Illustrations of Potential DHS and DOL Decisions’ Joint Effects on Access to CNMI-Only Work Permits for Foreign Workers	34
Figure 8: Examples of Scenarios Illustrating U.S. Agency Decisions’ Potential Joint Impact on Access to CNMI-Only Work Permits for Foreign Workers and CNMI Gross Domestic Product	38
Figure 9: Percentage of CNMI Foreign Workers Who Will Be Affected by Minimum Wage Increases, by Industry	43
Figure 10: CNMI Visitors’ Countries of Origin, Fiscal Year 2007	50

Figure 11: Reported CNMI Visitor Arrivals by Country, 1996 through 2007	75
Figure 12: Percentage and Number of Children in Each CNMI Household by Immigration Status of Head of Household, 2005	91
Figure 13: Immigration Status of Children in the CNMI, 2005	93

Abbreviations

BMS	CNMI Border Management System
CNMI	Commonwealth of the Northern Mariana Islands
DHS	U.S. Department of Homeland Security
DOI	U.S. Department of the Interior
DOL	U.S. Department of Labor
GDP	gross domestic product
HIES	CNMI Household, Income, and Expenditures Survey
INA	U.S. Immigration and Nationality Act
LIIDS	CNMI Labor and Immigration Identification and Documentation System
MVA	Marianas Visitors Authority

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



**United States Government Accountability
Office
Washington, DC 20548**

August 4, 2008

The Honorable Jeff Bingaman
Chairman
The Honorable Pete V. Domenici
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Nick J. Rahall II
Chairman
The Honorable Don Young
Ranking Member
Committee on Natural Resources
House of Representatives

The Honorable Donna M. Christensen
Chairwoman
The Honorable Luis G. Fortuno
Ranking Member
Subcommittee on Insular Affairs
Committee on Natural Resources
House of Representatives

The United States recently enacted legislation applying U.S. immigration law to the Commonwealth of the Northern Mariana Islands (CNMI),¹ ending decades of the CNMI's control over its own immigration system. The CNMI is subject to most U.S. laws, and the United States has complete responsibility and authority for CNMI defense and foreign affairs. However, since 1978, the CNMI has administered its own immigration system under the terms of its 1976 Covenant with the United States. The CNMI has applied this flexibility to admit substantial numbers of foreign

¹ Consolidated Natural Resources Act of 2008, Pub. L. No. 110-229, Title VII, 122 Stat. 754, 853 (May 8, 2008).

workers² from China, the Philippines, and other countries through a permit program for non-U.S. citizens (noncitizens) entering the CNMI. In 2005, these workers represented a majority of the CNMI labor force and outnumbered U.S. citizens in most industries, including the garment manufacturing and tourism sectors, which have been central to the CNMI's economy. The CNMI has also admitted tourists under its own entry permit and entry permit waiver programs and has provided various types of admission to foreign investors. The CNMI faces serious economic challenges, including a decline in the garment industry and fluctuation in the tourism industry.

The recent legislation amends the U.S.-CNMI Covenant to establish federal control of CNMI immigration on June 1, 2009, with several CNMI-specific provisions affecting foreign workers and investors during a transition period³ that ends in 2014. The recent legislation also amends U.S. immigration law⁴ to add the CNMI to an existing visa waiver program for Guam visitors.⁵ The legislation's stated intent is to ensure effective border control procedures and protect national and homeland security while minimizing the potential adverse economic and fiscal effects of phasing out the CNMI's own foreign worker permit program and maximizing the

² In this report, we use the term "foreign workers" to refer to workers in the CNMI who are not U.S. citizens or U.S. lawful permanent residents. Other sources sometimes call these workers "nonresident workers," "guest workers," "noncitizen workers," "alien workers," or "nonimmigrant workers." We do not use the term to refer to workers from the Freely Associated States—the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau—who are permitted to work in the United States, including the CNMI, under the Compacts of Free Association (48 U.S.C. § 1901 note, 1921 note, and 1931 note). In addition, some of the data sources cited in the report refer to temporary workers or other groups, and we have used terms consistent with source definitions.

³ The Secretary of Homeland Security has sole discretion to delay the start of the transition period for up to 180 days, in consultation with the Secretaries of the Interior, Labor, and State, the Attorney General, and the CNMI Governor. Unless otherwise noted, "transition period" refers to the period beginning no later than 18 months after the legislation's enactment and ending on December 31, 2014.

⁴ U.S. immigration law includes the Immigration and Nationality Act (INA) and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, expulsion, or removal of aliens (8 U.S.C. § 1101(a)(17)). The INA defines an alien as any person who is not a citizen or national of the United States. Any changes to U.S. immigration law subsequent to the legislation's enactment will also be applicable to the CNMI.

⁵ The legislation includes several provisions related to Guam, including the expansion of options for nonimmigrants to enter and work in Guam. Guam is an unincorporated U.S. territory south of the CNMI in the western Pacific.

CNMI's potential for economic and business growth. During the transition period, the Secretary of Homeland Security, in consultation with the Secretaries of the Interior, Labor, and State, and the Attorney General, has the responsibility to establish, administer, and enforce a transition program to regulate immigration in the CNMI.⁶ Some federal decisions require consultation with the CNMI Governor.⁷ In addition, the legislation requires the CNMI government to provide the Secretary of Homeland Security all immigration records or other information that the Secretary deems necessary to assist its implementation. The transition program includes a program providing foreign workers temporary permits to work in the CNMI (CNMI-only work permits); the number of these permits must be reduced to zero by the end of the transition period or the end of any extensions of the permit program. Federal agency decisions will include, among others, the Department of Homeland Security's determination of the numbers of CNMI-only work permits to issue annually and of the countries to include in a joint CNMI-Guam visa waiver program for visitors and the Secretary of Labor's determination of whether and when to extend the CNMI-only work permit program for up to 5 years at a time past 2014.

We were asked to examine factors that will affect the impact of the recent legislation's implementation on the CNMI economy, in particular the CNMI's (1) labor market, including foreign workers; (2) tourism sector; and (3) foreign investment. This report is based on our March 2008 review of the then pending legislation, which was signed into law on May 8, 2008.⁸ In addition, in response to your requests, this report provides information on dependents of temporary non-U.S. citizens in the CNMI (see app. VII) and on CNMI labor and immigration expenditures (see app. IX).

⁶ While this report focuses on key decisions by the Secretaries of Homeland Security and Labor, as well as technical assistance to be provided by the Secretary of the Interior, the Secretary of State and the Attorney General also have consultative and other roles in implementing the legislation.

⁷ Decisions requiring consultation with the CNMI Governor include, among others, whether to delay the start date of the transition period by up to 180 days and which countries to include in the CNMI-Guam visa waiver program.

⁸ GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period*, [GAO-08-466](#) (Washington, D.C.: Mar. 28, 2008). Our report reviewed the then pending S. 2739 and H.R. 3079. S. 2739, signed into law as P.L. 110-229, differs minimally from H.R. 3079 originally passed by the House. In particular, S. 2739 provides for a transition period ending in 2014 rather than 2013 and adds the Secretary of Defense to those with whom the Secretary of Labor must consult in deciding whether to extend the CNMI-only permit program. S. 2739 also contains the text of other bills unrelated to immigration law in the CNMI.

In preparing this report, we reviewed relevant CNMI immigration and labor laws; current U.S. immigration law, including the U.S. Immigration and Nationality Act (INA)⁹ and related regulations; and the recent legislation applying U.S. immigration law to the CNMI, including earlier versions of the legislation. We did not review the extent to which CNMI or U.S. laws were properly enforced or implemented. We interviewed officials from the U.S. Departments of Homeland Security (DHS), the Interior (DOI), and Labor (DOL). In addition, we interviewed CNMI government officials in the CNMI and in Washington, D.C., as well as representatives of the CNMI private sector and foreign workers. We analyzed available CNMI administrative and survey data, primarily from 2002 through 2007, related to the CNMI's labor market, tourism sector, and foreign investment. In particular, we analyzed CNMI data on the numbers and wages of workers from the Labor and Immigration Identification and Documentation System (LIIDS);¹⁰ the 2005 Household, Income, and Expenditures Survey (HIES);¹¹ and the CNMI Department of Finance's tax returns to compare the foreign worker labor force with that of resident workers. We analyzed tourism data from the Marianas Visitors Authority (MVA)¹² and the Border Management System (BMS)¹³ to study trends in tourist arrivals, demographic information such as tourists' countries of origin, and the cost of tour packages from certain countries. In addition, we analyzed foreign investment entry permit data from the CNMI Department of Commerce. To examine the possible range of effects from differing rates of reductions in foreign workers on the CNMI economy under the legislation, we simulated the effect on CNMI gross domestic product (GDP) under a number of scenarios. We did not receive some data

⁹ 8 U.S.C. §1101 et. seq.

¹⁰ LIIDS is a CNMI government administrative data system used to enforce CNMI labor laws that contains information on the individuals that have entered the CNMI for employment and other purposes.

¹¹ The CNMI 2005 HIES was conducted by the Central Statistics Division of the CNMI Department of Commerce, with funding from DOI's Office of Insular Affairs and assistance from consultants including a former U.S. Census Bureau employee, to provide a demographic profile of the CNMI. The scope of the survey was the three most populated islands in the CNMI—Saipan, Tinian, and Rota.

¹² MVA and the Hotel Association of the Northern Mariana Islands track and provided us with data on CNMI tourism, including hotel occupancy rates, the number of visitors from each country, length of stay, and cost of various tour packages from different countries.

¹³ The BMS database contains information on persons' entries to and exits from the CNMI, for the purpose of supporting border security. Data are collected primarily through automated passport readers.

requested from the CNMI government, including data from LIIDS on foreign investors and on other permit holders apart from one category of foreign workers. Moreover, some relevant data are not collected by either the CNMI or the federal government. While the data provided by the CNMI government had some limitations, and we did not receive all data requested, we determined that the available data were adequate and sufficiently reliable for the purposes of our review. In addition, to describe CNMI economic and political conditions, we consulted data from several U.S. government sources. The scope of our study does not include foreign workers whose documentation is not current or valid or those working in any underground economy. In addition, we did not review federal agencies' expected costs or operational needs in implementing the legislation. We conducted this performance audit from June 2007 to August 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. See appendix I for further details of our methodology.

Results in Brief

Labor market. Decisions that DHS and DOL will make in implementing the CNMI-only work permit program will largely determine the legislation's potential impact on the availability of foreign workers and, as a result, on the CNMI labor market and economy. DHS decisions that will affect employers' access to foreign workers include the number of permits to allocate each year, to be reduced to zero by the end of the CNMI-only permit program; the distribution of the permits; their terms and conditions; and the permit fees. DOL's decision regarding whether and when to extend the CNMI-only permit program past 2014 will likewise affect the availability of foreign workers. Moreover, interaction of the rate and timing with which DHS reduces the available number of permits and the timing of any DOL extensions of the program will significantly impact the permits' availability. For example, if DHS reduces the annual allocation of permits by the same number each year and DOL extends the program frequently, the availability of permits will decline less rapidly than if DOL extends the program less frequently or not at all. However, federal agencies have not yet identified an interagency process to coordinate such decisions. In addition, because key federal sources of labor market data do not cover the CNMI, the agencies may have difficulty in obtaining the data needed to make decisions that minimize any adverse impact on the CNMI. Given foreign workers' prominence in key CNMI

industries, any substantial and rapid decline in the availability of CNMI-only work permits for foreign workers would have a negative effect on the economy, as illustrated by our simulations of a range of possible effects of agency decisions on CNMI GDP. However, federal agencies may make more modest reductions in CNMI-only permits, resulting in minimal effects on the economy. At the same time, continuing declines in the garment industry, challenges to the tourism industry, and the scheduled increases in the minimum wage may reduce demand for foreign workers, lessening any potential adverse impact of the legislation on the economy. Although the legislation and the CNMI government have stated goals of preparing CNMI residents¹⁴ to replace foreign workers, factors such as the limited number of available CNMI residents may impede these efforts' effectiveness.

Tourism. Any impact of the recent legislation on the CNMI's tourism sector will depend largely on DHS regulations specifying which countries will be included in the joint CNMI-Guam visa waiver program. The legislation's impact will be minimal for tourists from countries included in the joint visa waiver program; however, for tourists from countries not included in the joint program, the costs and time associated with obtaining visitor visas will likely increase, possibly influencing tourists to choose destinations other than the CNMI and negatively affecting CNMI tourism. Currently most CNMI tourists are from Japan and South Korea, both of which will probably be included in the joint visa waiver program because they currently are included in the Guam visa waiver program. China¹⁵ and Russia—the markets most likely to be affected by the legislation because they currently are not included in the Guam visa waiver program—account for about 10 percent and less than 1 percent of CNMI tourist arrivals, respectively, but are nevertheless considered important markets. If China and Russia are not included in the joint visa waiver program, tourists from these countries will face increased visa fees, more time-consuming procedures, and uncertainties related to possible visa refusal. According to CNMI tourism industry representatives, this will reduce the CNMI's attractiveness relative to other Asia and Pacific destinations. The likely impact on the CNMI of sharing the joint program with Guam is unclear.

¹⁴ In this report, we use the term "CNMI residents" to refer to U.S. citizens and U.S. lawful permanent residents who live in the CNMI.

¹⁵ In this report, "China" refers to the People's Republic of China.

Foreign investment. The impact of the legislation on CNMI foreign investment will depend, in part, on key DHS decisions regarding foreign investor entry permits; however, lack of data makes it difficult to assess the likely impact of these decisions and may hamper federal decisions. In implementing the legislation, DHS will decide which CNMI foreign investor permit holders will receive “grandfathered” status as U.S. nonimmigrant treaty investors during the transition period. In particular, DHS will determine whether the status applies only to investors holding one of three types of CNMI foreign investor entry permits, the perpetual foreign investor entry permit, or extend this status to investors holding another type, the long-term business entry permit. DHS also will determine how long the grandfathered status will be valid. However, critical data on foreign investment in the CNMI—such as data on overall foreign investment in the CNMI—are not available, making it difficult to estimate the likely impact of the legislation and limiting DHS’s ability to make informed decisions regarding the grandfathered status. Data provided by the CNMI Department of Commerce show that long-term business entry permits accounted for 90 percent of all long-term business and perpetual foreign investor entry permits active and valid in July 2008. This suggests that DHS’s decision on whether to apply grandfathered status to investors with these permits will partly determine the impact of the legislation. Moreover, any impact on foreign investment in the CNMI will likely affect the labor market and tourism sector, and any impact on the labor market and tourism sector may also affect foreign investment.

We are recommending that the Secretary of Homeland Security lead other relevant federal agencies, including the Departments of the Interior, Labor, and State, in identifying the interagency process that they will use to coordinate their decisions—and consult with the CNMI government as required—in jointly implementing the legislation. We also are recommending that the Secretaries of Homeland Security and Labor jointly develop strategies for obtaining critical data on the CNMI labor market and on CNMI foreign investment.

We provided a draft of this report to officials in DHS, DOI, DOL, and in the CNMI government for review and comment. We received written comments on the draft report from DHS and DOI and from the CNMI government, which are reprinted in appendixes X, XI, and XII, respectively. We also received technical comments from DHS and DOI and from the CNMI government. We incorporated their comments as appropriate. DOL had no comments. In addition, we provided a draft to the Department of State for technical review, and State had no comments. DHS agreed with our findings and recommendations, and DOI generally

agreed with our findings. The CNMI government raised concerns or issues about some aspects of our report methodology and analysis. It commented that the GDP simulation methodology we used in the report is inadequate and that the report's assessment of future demand for foreign workers in the CNMI is faulty and ignores recent evidence of economic recovery. By focusing on one of several scenarios developed for illustrative purposes rather than the full range of scenarios included in our report, the CNMI government comments also inaccurately stated that the report predicts a substantial decline in the CNMI economy as a result of the legislation. We believe our methodology is a sound approach for analyzing the potential impact of federal implementation decisions on the CNMI economy. In response to these comments, however, we revised the body of the report to better clarify that the GDP simulations illustrate a range of possible outcomes of federal decisions regarding the CNMI-only work permit program—ranging from minimal to substantial impact on the economy—without predicting future GDP. The CNMI government also expressed concern that the report's discussion of possible consequences to the CNMI economy could itself harm the CNMI. However, we believe that reporting the key decisions facing federal agencies and illustrating a range of potential impacts that those decisions could have on the CNMI economy is essential to effective implementation of the legislation that has now been enacted. Fully informed and coordinated federal agencies will be best capable of making decisions that minimize any potential adverse consequences for the CNMI economy. The actual extent of the legislation's impact on the CNMI economy will depend on the key federal decisions to be made related to foreign workers, tourists, and foreign investors identified in this report, as well as other factors in the economy.

Background

Political History of the CNMI

The Northern Mariana Islands are a group of 14 islands in the western Pacific Ocean, lying just north of Guam, 5,500 miles from the U.S. mainland. After World War II, the U.S. Congress approved the Trusteeship Agreement that made the United States responsible to the United Nations for the administration of the islands.¹⁶ Later, the Northern Mariana Islands

¹⁶ In 1947, the United Nations gave the United States authority to administer the Trust Territory of the Pacific Islands, which included the Northern Mariana Islands. The trusteeship over the Northern Mariana Islands was formally dissolved in 1986.

sought self-government and permanent ties to the United States.¹⁷ In 1976, after almost 30 years as a trust territory, the District of the Mariana Islands entered into a Covenant with the United States establishing the island territory's status as a self-governing commonwealth in political union with the United States.¹⁸ The Covenant grants the CNMI the right of self-governance over internal affairs and grants the United States complete responsibility and authority for matters relating to foreign affairs and defense affecting the CNMI.¹⁹ The Covenant initially made many federal laws applicable to the CNMI, including laws that provide federal services and financial assistance programs.²⁰ The Covenant preserved the CNMI's exemption from certain federal laws that had previously been inapplicable to the Trust Territory of the Pacific Islands, including federal immigration laws with certain limited exceptions²¹ and certain federal minimum wage provisions. However, under the terms of the Covenant, the federal government has the right to apply federal law in these exempted areas

¹⁷ Howard P. Willens and Deanne C. Siemer, *An Honorable Accord: The Covenant between the Northern Mariana Islands and the United States* (Honolulu, Hawaii: University of Hawaii Press, 2002).

¹⁸ Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. No. 94-241, § 1, 90 Stat. 263 (Mar. 24, 1976), 48 U.S.C. § 1801 note).

¹⁹ Under the Covenant, the U.S. government may enact legislation in accordance with its constitutional processes that will be applicable to the CNMI. To respect the CNMI's right of self-government under the Covenant, certain provisions of the Covenant may be modified only with the consent of both the federal government and the CNMI government. These provisions include those relating to the political relationship between the United States and the CNMI; the CNMI Constitution, citizenship, and nationality; the application of the U.S. Constitution to the CNMI; and the land ownership rights of CNMI citizens. Most other provisions of the CNMI Covenant may be modified by the federal government without the consent of the CNMI government, and local CNMI laws that were not inconsistent with federal laws or treaties of the United States when the Covenant was enacted remain in effect. In addition, international treaty obligations between the United States and other countries apply to the CNMI through the Covenant.

²⁰ The Covenant also made certain provisions of the Social Security Act, the Public Health Service Act, and the Micronesian Claims Act applicable to the CNMI.

²¹ Section 506 of the Covenant applies certain provisions of the INA relating to citizenship and family-based permanent immigration to the CNMI. Certain other nonimmigrant provisions of the INA (T and U) also apply to CNMI. See 8 U.S.C. § 1101(a)(15)(T)-(U). In addition, the Covenant provided U.S. citizenship to legally qualified CNMI residents.

without the consent of the CNMI government, and it enacted the recent federal immigration legislation under this authority.

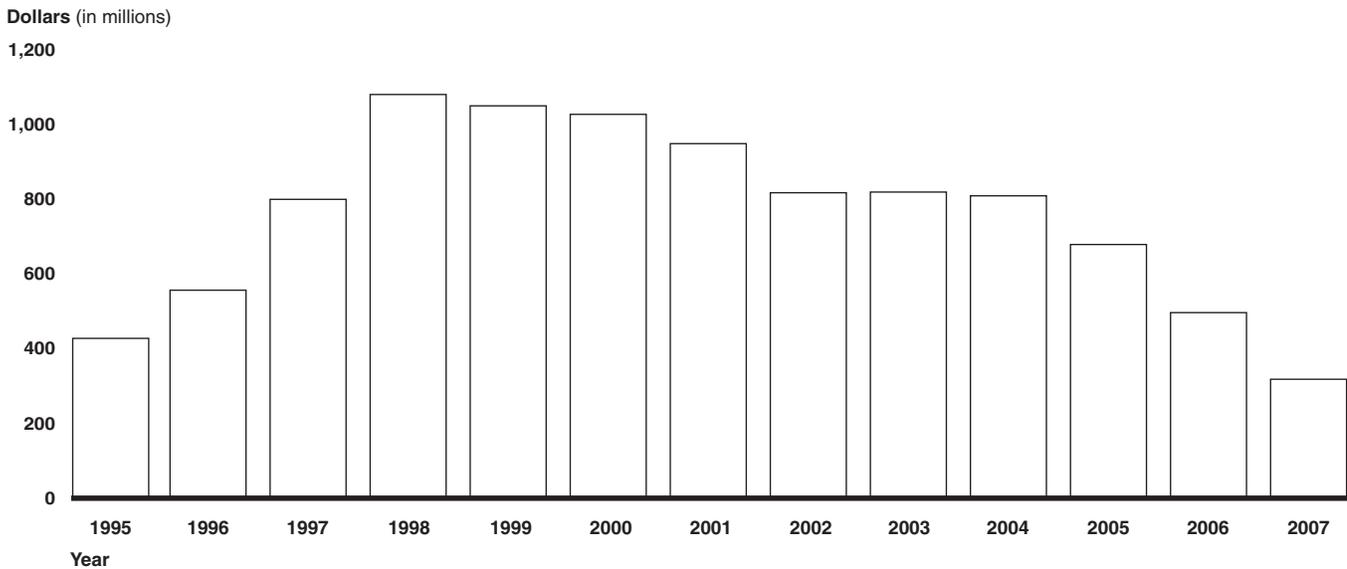
The CNMI's Economy

Changing Economic Conditions in the CNMI

Between 1980 and 1995, the CNMI's employment grew by about 12.7 percent annually, largely because of its rapidly expanding garment and tourist sectors. Both the garment and tourist industries contributed directly to the economy by generating employment and bringing revenue from outside the CNMI via exports. In 1995, these two industries accounted for about 80 percent of all employment. In addition, a 1999 study found that garment manufacturing and tourism accounted for about 85 percent of CNMI's total economic activity and 96 percent of its exports.²² (See app. III for more detailed information regarding the CNMI's economy). However, several recent developments in international trade have caused the CNMI's garment industry to decline dramatically. In January 2005, in accordance with World Trade Organization agreements, the United States eliminated quotas on textile and apparel imports from other textile-producing countries, exposing CNMI's apparel industry to greater competition. Subsequently, the value of CNMI textile exports to the United States dropped from \$1.1 billion in 1998 to \$317 million in 2007 (see fig. 1), and the number of licensed CNMI apparel manufacturers decreased rapidly, from 34 firms in 1999 to 6 firms as of July 2008.

²² Northern Marianas College, Business Development Center, *An Economic Study for the Commonwealth of the Northern Mariana Islands*, with funding provided by the U.S. Department of the Interior, Office of Insular Affairs (Saipan, Commonwealth of the Northern Mariana Islands, October 1999).

Figure 1: CNMI Garment Exports to the United States, 1995 to 2007

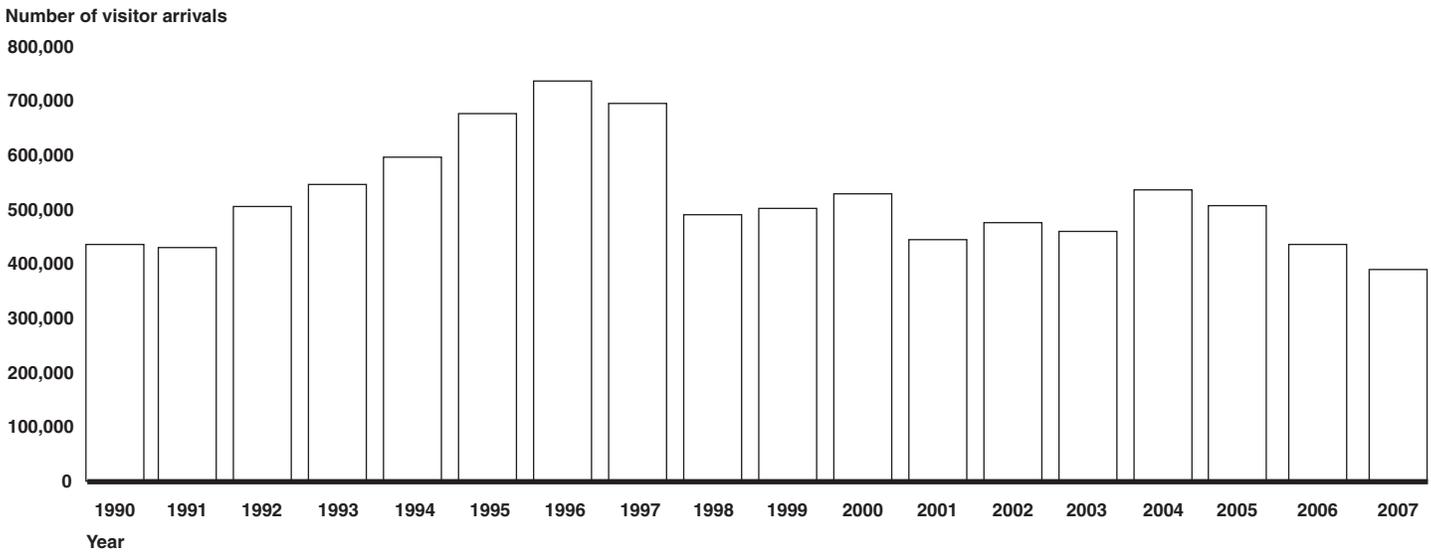


Source: GAO analysis of U.S. Department of Commerce data.

Note: Dollar amounts shown are not adjusted for inflation.

In addition, the CNMI economy has been negatively affected by recent external events' impact on the tourism industry. For example, tourism in the CNMI experienced a sharp decline in the late 1990s as a result of the Asian financial crisis. In 2003, according to CNMI officials, tourism slowed for several months in reaction to the SARS epidemic, which originated in Asia, and the war in Iraq. Total visitor arrivals to the CNMI dropped from a peak of 736,117 in 1996 to 389,354 in 2007, a decline of nearly 47 percent (see fig. 2).

Figure 2: Number of Visitor Arrivals to the CNMI, 1990 to 2007



Source: Marianas Visitors Authority data.

The declines of the garment and tourism industries have taken a toll on the overall economy.

- The overall fiscal condition of the CNMI’s government steadily weakened— government net assets of \$40.6 million at the end of 2001 fell to a negative \$38 million balance by the end of 2005.²³
- The median household income in the CNMI fell from \$22,898 in 2000 to \$17,138 in 2004,²⁴ and the per capita income in the CNMI decreased from \$9,151 in 2000 to \$6,178 in 2004.²⁵
- The unemployment rate in the CNMI rose from 3.8 percent in 2000 to 8.3 percent in 2005.

²³ GAO, *Commonwealth of the Northern Mariana Islands: Serious Economic, Fiscal, and Accountability Challenges*, [GAO-07-436T](#) (Washington, D.C.: Feb. 8, 2007).

²⁴ Data are drawn from the 2000 U.S. Census and the 2005 CNMI HIES. The 2005 CNMI HIES provides the latest household data available, but some of the survey questions requested information from 2004.

²⁵ All household and per capita income values are in nominal dollars.

-
- The percentage of people below the poverty level in the CNMI rose from 46 percent in 1999 to 53.5 percent in 2004.

Furthermore, the CNMI continues to have lower income and higher unemployment and poverty rates than the mainland United States.

- In 2004, median household income was 61 percent lower in the CNMI than in the United States (\$17,138 versus \$44,389) and per capita income was 74 percent lower in the CNMI than in the United States (\$6,178 versus \$23,848).
- In 2005, the unemployment rate in the CNMI was 8.3 percent versus 5.1 percent in the United States.
- In 2004, 53.5 percent of people in the CNMI were below the poverty level compared with 12.7 percent in the United States.

Another factor affecting changing economic conditions in the CNMI is the Department of Defense's plan to move 8,000 U.S. Marines and their estimated 9,000 military dependents from Okinawa to nearby Guam over the next several years, possibly bringing new business and tourism opportunities for the CNMI. The Department of Defense also plans to move other Navy, Air Force, and Army units to Guam as part of a major realignment. The total military buildup on Guam is estimated to cost over \$13 billion and increase Guam's current population by an estimated 25,000 active duty military personnel and dependents.²⁶

CNMI Reliance on Foreign Workers

The CNMI has used its authority over its own immigration policy to bring in foreign workers under temporary renewable work permits and to allow the entry of foreign business owners and their families. Largely because of the influx of these foreign workers and entrepreneurs, the population of the CNMI grew rapidly, increasing from about 16,800 in 1980 to 69,200 in 2000. In 2005, the population of the CNMI was 65,914, including 33,150 (50 percent) U.S. citizens, 7,847 (12 percent) permanent non-U.S. citizens, and 24,917 (38 percent) temporary non-U.S. citizens. As the garment and tourist industries in the CNMI expanded over this same period, the CNMI economy became dependent on foreign labor. For example, in 1995, two-thirds of the working population were temporary residents, including

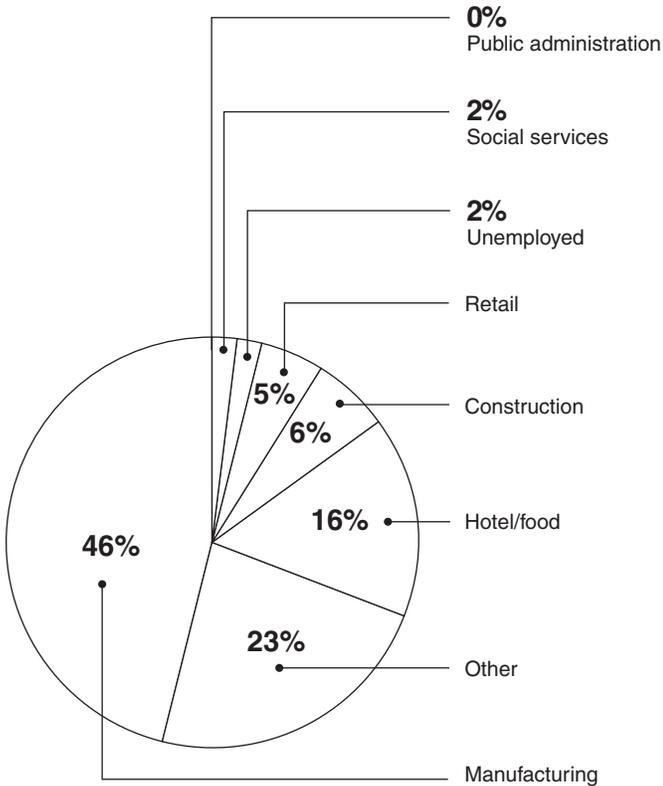
²⁶ GAO, *Defense Infrastructure: Planning Efforts for the Proposed Military Buildup on Guam Are in Their Initial Stages, with Many Challenges Yet to Be Addressed*, [GAO-08-722T](#) (Washington, D.C.: May 1, 2008).

about 93 percent of workers in the garment industry and slightly over 72 percent in the tourism industry. In contrast, in the same year, U.S. citizens and permanent residents held about 96 percent of jobs in the public sector. As a result, the CNMI economy developed a two-tiered wage structure, with U.S. citizens and permanent residents earning 3.5 times more than temporary residents in 1995.²⁷ In 2005, according to a household survey of the CNMI, 46 percent of temporary residents in the labor force worked in manufacturing, compared with 6 percent of U.S. citizens and permanent residents, and less than 0.5 percent of temporary CNMI residents worked in public administration, compared with 21 percent of U.S. citizens and permanent residents (see fig. 3).

²⁷ Northern Marianas College, Business Development Center, *An Economic Study for the Commonwealth of the Northern Mariana Islands*. The study did not distinguish between U.S. citizens and U.S. lawful permanent residents, referring to the combined group as permanent residents.

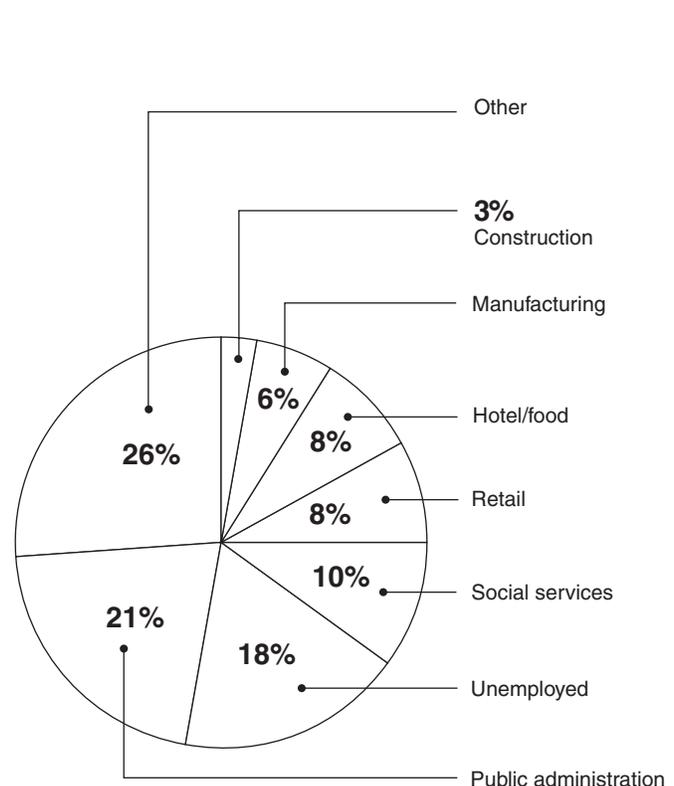
Figure 3: Industry Breakdown of CNMI Workforce by Immigration Status, 2005

Labor Force of Temporary Workers, by Industry



Total: 22,155

Labor Force of U.S. Citizen and Permanent Residents, by Industry



Total: 14,631

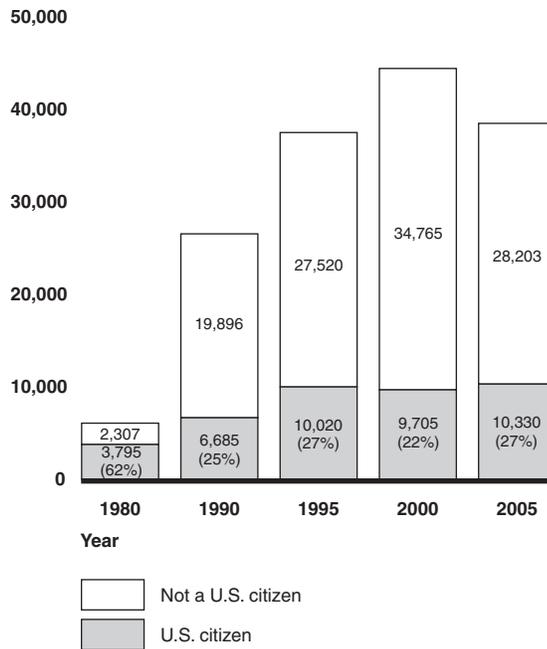
Source: GAO analysis of 2005 CNMI Household, Income, and Expenditures Survey (HIES).

Note: "Other" represents workers in agriculture, forestry, fishing, and mining; wholesale trade; transport, communications, and utilities; information; finance, insurance, real estate, and rental businesses; science; management, administrative, and waste management; arts, entertainment, and recreation services; and other services. "Social services" includes educational, health, and social services.

The number and proportion of noncitizens in the CNMI labor force has decreased in recent years (see fig. 4). Noncitizen workers in the CNMI are predominantly Chinese or Filipino.

Figure 4: Citizenship of CNMI Workers

Number of CNMI workers, by citizenship



Source: GAO analysis of U.S. Census Bureau data for 1980, 1990, and 2000; 1995 CNMI Census of Population and Housing; and the 2005 CNMI Household, Income, and Expenditures Survey (HIES).

Note: Noncitizens include temporary workers and permanent residents. The data do not allow us to distinguish between these groups for all of the years shown.

Minimum Wage in the CNMI

Until 2007, the CNMI's workforce was subject to a minimum wage set by the CNMI government. At the beginning of 2007, the CNMI's minimum wage was \$3.05 per hour, substantially lower than the U.S. federal minimum wage of \$5.15 per hour but higher than wages for comparable positions in China, the Philippines, Vietnam, and other Asian countries. In 2007, Congress enacted a law applying the U.S. minimum wage to the CNMI, gradually increasing the CNMI minimum wage until it meets federal minimum wage requirements.²⁸ According to the law, the CNMI minimum wage was to increase to \$4.05 per hour as of May 26, 2007.

²⁸ U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. No. 110-28, § 8103, 121 Stat. 188 (May 25, 2007)). This law also increased the U.S. minimum wage to \$7.25 per hour and applied the U.S. minimum wage to American Samoa.

CNMI and U.S. Immigration Law

Current CNMI Immigration Law

Until passage of the recent U.S. legislation, the CNMI retained legislative authority over most aspects of immigration, regulating entry to the CNMI through a permit system. CNMI immigration law includes the following provisions for foreign workers, tourists, and foreign investors. CNMI immigration law is in effect until the start of the transition period under the federal legislation; however, federal restrictions on the total number of foreign workers in the CNMI apply immediately.

Foreign workers. CNMI immigration and labor rules provide for, among other things, a worker entry permit for noncitizens entering the CNMI. CNMI employers do not currently have the option to petition for permanent immigrant status of workers under CNMI law. The recent federal legislation prohibits the CNMI government from allowing an increase in the total number of foreign workers in the CNMI between the legislation's enactment and the effective date of the transition period.

Tourists. According to the CNMI government, tourists from certain countries may enter the CNMI as part of its entry permit waiver program. The program allows eligible participants to enter for tourism or business for up to 90 days without a visitor entry permit. Noncitizens who are ineligible for a waiver, including citizens of China, Russia, and Korea, may apply for a visitor entry permit, which is valid for a single entry for up to 30 days.²⁹

Foreign investors. The CNMI offers a perpetual foreign investor entry permit, valid for an indefinite period of time, to individuals who maintain certain levels of investment in the CNMI, among other requirements. In addition, the CNMI offers long-term business entry permits (valid for 2 years at a time) with specified investment requirements.³⁰ The CNMI also

²⁹ The CNMI also offers a long-term tourist entry permit valid for up to 60 additional days, but it is rarely used. In addition, Japanese, Korean, and certain other tourists 55 years and older may enter for up to 90 days under a comity entry permit, which is available to citizens of countries that provide a comparable permit to CNMI residents.

³⁰ Additionally, the CNMI offers regular-term business entry permits, valid for visits of up to 90 days within a 12-month period, which have no investment requirements and may be used for shorter visits to the CNMI.

offers a retiree foreign investor entry permit requiring a minimum investment in residential property by an applicant 55 years or older.

Current U.S. Immigration Law

Under U.S. immigration law, noncitizens may apply for entry into the United States as nonimmigrants or as immigrants intending to reside permanently. The nonimmigrant categories for temporary admission include workers who meet certain requirements, visitors for business or pleasure, and treaty investors, among others. The immigrant categories include permanent immigrant investor visas, as well as various employment-based categories for admission to the United States as lawful permanent residents permitted to work in the United States.

Foreign workers. U.S. immigration law includes several types of visas for nonimmigrant workers and their families (H visas and certain other visas) and sets caps for two types of H visas (H visa caps).³¹ In particular, there are limits on the number of H nonimmigrant work visas that can be issued in each fiscal year. In addition to nonimmigrant visas, federal law provides for permanent employer-sponsored immigrant visas for individuals seeking to reside permanently in the United States. (For additional information on these and other visas available to workers, see app. V.)

Tourists. Under federal law, visitors may come to the United States for business on a B-1 visa, for pleasure on a B-2 visa, or for business or pleasure on a combined B-1–B-2 visa. Visitors with B visas are normally admitted for a minimum of 6 months and a maximum of 1 year. Citizens of the 27 countries included in the U.S. Visa Waiver Program may stay for up to 90 days for business or pleasure in the United States without obtaining a nonimmigrant visa.³² In addition, federal law allows nationals of nine additional countries to visit Guam in B status for up to 15 days without obtaining a visa under the Guam Visa Waiver Program.

Foreign investors. The INA allows foreign investors to enter the United States as nonimmigrants under treaty investor status with an E-2 visa.

³¹ As a general rule, nonimmigrants temporarily admitted for an employment-based purpose are authorized to work only in the authorized position; lawful permanent residents and other immigrants may work for any employer.

³² Visitors from countries in the U.S. Visa Waiver Program must possess a valid passport and a round-trip ticket, have been determined by DHS not to be a threat to the United States, and execute the proper immigration forms, among other requirements. The visitor also waives his or her right to appeal an immigration officer's determination regarding admissibility or to contest removal, other than on the basis of an application for asylum.

Recent Legislation Applying
U.S. Immigration Law to the
CNMI

Currently, federal law allows E admission for up to a 2-year period of initial stay and allows the investor to apply for renewal.³³ Treaty investors must invest a substantial amount of capital in a bona fide enterprise in the United States, must be seeking entry solely to develop and direct the enterprise, and must intend to depart the United States when their treaty investor status ends.³⁴ Treaty investors must be nationals of a country with which the United States has a treaty of friendship, commerce, or navigation and must be entering the United States pursuant to the provisions of the treaty. The INA also allows foreign investors to seek permanent immigrant visas (EB-5) for employment-creation purposes.³⁵

The recent legislation applies provisions of federal immigration law to the CNMI 1 year after enactment subject to a transition period that begins on June 1, 2009, and ends on December 31, 2014, with a transitional provision for foreign workers that may be extended beyond 2014. The Secretary of Homeland Security has sole discretion to delay the start of the transition period for up to 180 days, in consultation with other federal agencies and the CNMI Governor.³⁶ The stated intent of the recent legislation is to ensure that effective border control procedures are implemented and observed and that national security and homeland security issues are properly addressed. The recent legislation also states that, to the greatest extent possible, potential adverse economic and fiscal effects of phasing out the CNMI's foreign worker program should be minimized in order to

³³ Under federal regulations for E-2 visas, spouses or children may apply to join foreign investors under the E-2 visa, and spouses are authorized to work under an E-2 visa.

³⁴ Generally, the lower the cost of the enterprise, the higher, proportionately, the investment must be to be considered a substantial amount of capital. In addition, for an E-2 visa, investment is defined as the placing of capital at commercial risk with the objective of generating a profit, and the investor must be in possession of and have total control over the capital being invested. The capital must be subject to loss if investment fortunes reverse, must be the investor's unsecured personal business capital or capital secured by personal assets, and must be irrevocably committed to the enterprise.

³⁵ Individuals seeking permanent immigrant visas must meet higher thresholds than do E-2 visa holders, including the general requirement to establish a business that creates at least 10 full-time jobs and an investment of at least \$1 million, or \$500,000 in a rural or high-unemployment area.

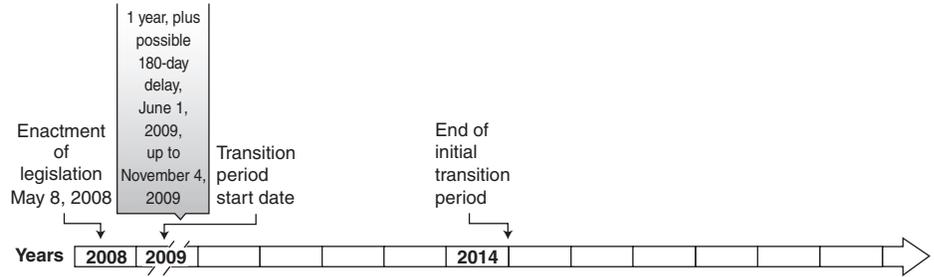
³⁶ The legislation does not identify the interagency process to be used to coordinate implementation among relevant federal agencies and the CNMI government. Executive Order 13299 established the Interagency Group on Insular Affairs through which the Secretary of the Interior or its designee shall convene meetings to provide advice on the establishment or implementation of policies concerning the CNMI and other insular areas, as of May 12, 2003.

maximize the CNMI's potential for future economic growth. In March 2008, we described the key provisions of this legislation.³⁷ Figure 5 shows the legislation's key provisions related to foreign workers, tourists, and foreign investors.³⁸

³⁷ [GAO-08-466](#).

³⁸ Other key provisions of the recent legislation establish the position of a nonvoting CNMI delegate to the House of Representatives; require several studies on the legislation's implementation; transfer responsibility for refugee protection in the CNMI to the federal government; and relate to lawful permanent resident status.

Figure 5: Recent Federal Immigration Legislation's Provisions for Foreign Workers, Tourists, and Foreign Investors in the CNMI



Category	Provision	Duration
Foreign workers	CNMI-only work permit program	Starts in 2009, ends Dec 31, 2014 (with a dashed arrow indicating possible extension)
	Exemptions from certain visa caps for nonimmigrant workers	Starts in 2009, ends Dec 31, 2014
	Option to apply for nonimmigrant worker visas generally available under U.S. law	Starts in 2009, continues permanently
	Option to apply for employment-based permanent immigration status generally available under U.S. law	Starts in 2009, continues permanently
Tourists	Joint CNMI-Guam visa waiver program	Starts in 2009, continues permanently
	Option to apply for U.S. visitor visas for business or pleasure generally available under U.S. law	Starts in 2009, continues permanently
Foreign investors	Option for current CNMI foreign investors to convert to U.S. CNMI-only nonimmigrant treaty investors	Starts in 2009, ends Dec 31, 2014
	Option to apply for nonimmigrant treaty investor status generally available under U.S. law	Starts in 2009, continues permanently
	Option to apply for U.S. immigrant foreign investor status generally available under U.S. law	Starts in 2009, continues permanently

- Begins with transition period start date and ends December 31, 2014, under P.L. 110-229, enacted May 8, 2008.
- May be extended indefinitely for up to 5 years at a time by the U.S. Secretary of Labor.
- Begins with transition period start date and continues permanently.

Source: GAO analysis of P.L. 110-229 and current U.S. immigration law.

During the transition period, the Secretary of Homeland Security, in consultation with the Secretaries of the Interior, Labor, and State, and the Attorney General, has the responsibility to establish, administer, and enforce a transition program to regulate immigration in the CNMI. Implementation decisions by DHS will determine the extent to which CNMI local laws and authority will be affected. Each agency must issue regulations and implement agreements with the other agencies to identify and assign their respective duties for timely implementation of the transition program.³⁹ The agreements must address procedures to ensure that CNMI employers have access to adequate labor and that tourists, students, retirees, and other visitors have access to the CNMI without unnecessary obstacles.⁴⁰

Following are descriptions of the recent legislation's key provisions related to foreign workers, tourists, and foreign investors.⁴¹

Foreign workers. The recent legislation allows federal agencies to preserve access to foreign workers in the CNMI during the transition period and any extensions of the CNMI-only permit program, but limits access to foreign workers afterward to those generally available under U.S. immigration law.⁴² Key provisions regarding foreign workers in the CNMI include the following:

- During the transition period and any extensions of the CNMI-only permit program, employers of workers not otherwise eligible for admission under federal law can apply for temporary CNMI-only nonimmigrant work permits. During this period, the Secretary of Homeland Security has the authority to determine the number, terms, and conditions of these permits, which must be reduced to zero by the end of the transition period and any extensions of the CNMI-only work permit program. This program may be

³⁹ Key rules and other aspects of the transition program require further development through regulation. In addition, federal agencies must determine how to implement and enforce the application of federal immigration law in the CNMI, including establishing offices, hiring staff, and implementing screening and enforcement systems.

⁴⁰ The agreements also may allocate funding among the respective agencies tasked with related responsibilities.

⁴¹ [GAO-08-466](#).

⁴² During the transition period, existing CNMI-government-approved foreign workers lacking U.S. immigration status can continue to live and work in the CNMI for a limited time—2 years after the effective date of the transition program or when the CNMI-issued permit expires, whichever is earlier.

extended indefinitely by the U.S. Secretary of Labor for up to 5 years at a time.

- During the initial transition period, employers in the CNMI and Guam can petition for foreign workers under the federal nonimmigrant H visa process, without limitation by the established numerical caps, for two types of H visas. This exemption from the visa caps expires when the transition period ends in 2014.⁴³
- During and after the transition period, CNMI employers can petition for nonimmigrant worker visas generally available under U.S. law. However, after the transition period ends, no nonimmigrant visas will be available for workers in continuous, rather than temporary, low-skill positions (see app. V).
- During and after the transition period, CNMI employers can also petition for employment-based permanent immigration status for workers under the same procedures as other U.S. employers.

Fees for the CNMI-only work permit will be determined by DHS regulations and are not currently available. The current fees for other U.S. worker permits range higher than the CNMI's current permit fees for foreign workers (see app. IV).

Tourists. The recent legislation establishes a joint visa waiver program by adding the CNMI to an existing Guam visa waiver program. Under the joint visa waiver program, visitors from designated countries who travel for business or pleasure to the CNMI are exempt from the standard federal visa documentation requirements.⁴⁴

- The Secretary of Homeland Security will determine which countries are included in the CNMI-Guam visa waiver program.

⁴³ The legislation provides the CNMI and Guam with exemptions from the H visa caps only through the end of the initial transition period in 2014. See [GAO-08-466](#). The subsequent report of the Senate Committee on Energy and Natural Resources on H.R. 3079 states that the Committee intends that the H exemptions for the CNMI and Guam be extended along with any extension of the 5-year transition period. See S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008). The CNMI government agrees with this interpretation, and DOI said in its comments on a draft of this report that it would ask DHS for clarification on the provision.

⁴⁴ The joint Guam-CNMI visa waiver program grants visa-free travel privileges to Guam or the CNMI only, not other parts of the United States.

-
- Citizens of countries that do not qualify for entry under the joint CNMI and Guam visa waiver program or other U.S. visa waiver programs may apply for U.S. visitor visas valid for entry to any part of the United States, which generally require in-person applications and higher fees than the CNMI currently assesses (see app. IV).

Foreign investors. The recent legislation eliminates the CNMI's perpetual foreign investor, retiree investor, and long-term business entry permit programs;⁴⁵ instead, it allows these and other business travelers to apply to visit the CNMI under a visitor visa or other categories in federal immigration law. The following provisions also apply:

- Current CNMI foreign investors who meet certain requirements can convert from a CNMI investor to a federal nonimmigrant treaty investor during the transition period. DHS will determine to whom this “grandfathered” status applies and how long it is valid.
- New foreign investors can apply for U.S. nonimmigrant treaty investor status.
- New foreign investors also can petition for U.S. permanent immigration status that is currently unavailable in the CNMI.

Recent Legislation's Potential Impact on CNMI Labor Market and Economy Will Depend Largely on Federal Decisions, but U.S. Agencies Lack Needed Data and Coordination Process

Decisions that DHS and DOL make in implementing the CNMI-only work permit program will largely determine the legislation's potential impact on the availability of foreign workers and, as a result, on the CNMI labor market and economy. In particular, the interaction of DHS and DOL decisions about, respectively, the number of permits to allocate annually and whether and when to extend the permit program will significantly affect employers' access to foreign workers. However, federal agencies may have difficulty in obtaining data on the CNMI labor market on which to base their decisions. Further, the agencies have not yet identified an interagency process to coordinate such decisions. Given foreign workers' prominence in key CNMI industries, any substantial and rapid decline in the availability of CNMI-only work permits for foreign workers would have a negative effect on the CNMI economy. However, federal agencies may make more modest reductions in CNMI-only permits, resulting in minimal impact on the economy. At the same time, continuing declines in the garment industry, challenges to the tourism industry, and the scheduled

⁴⁵ The recent legislation places the CNMI immigration system under federal control, which includes eliminating the CNMI regular-term business entry permit.

increases in the minimum wage may reduce demand for foreign workers, lessening any potential adverse impact of the legislation on the economy. Although the legislation and the CNMI government have stated goals of preparing CNMI residents to replace foreign workers, factors such as the limited number of available CNMI residents may impede these efforts' effectiveness.

Key U.S. Agency Decisions for CNMI-Only Permit Program Will Affect Employers' Access to Foreign Workers, but Data for Some Decisions May Be Difficult to Obtain

In implementing the CNMI-only work permit program mandated by the legislation, DHS and DOL will make five key decisions that will affect employers' access to foreign workers (see table 1).⁴⁶ However, CNMI-specific labor market data, which the agencies will need to consider to minimize any adverse economic impact of their decisions, may be difficult to obtain.

⁴⁶ See [GAO-08-466](#) for more information about the legislation's requirements related to foreign workers in the CNMI.

Table 1: Key Federal Implementation Decisions Related to CNMI Foreign Workers

Key federal implementation decisions	Legislative requirements and authorizations
Secretary of Homeland Security	
<ul style="list-style-type: none"> Determine the number of permits to provide under the CNMI-only work permit program. Determine the way the permits are distributed. Determine the terms and conditions for the permits. 	<ul style="list-style-type: none"> Reduce annual allocation of CNMI-only permits to zero by the end of the transition period or any extensions of CNMI-only permit program. Attempt to promote the maximum use of U.S. citizens and, if needed, lawful permanent residents and citizens of the Freely Associated States, and to prevent adverse effects on the wages and working conditions of those workers.
<ul style="list-style-type: none"> Determine fees to charge employers and workers for CNMI-only work permits. 	<ul style="list-style-type: none"> Set fees for the permits so as to recover the full cost of providing services, including administrative costs. Charge employers an annual supplemental fee of \$150 per permit to fund CNMI vocational education.
Secretary of Labor	
<ul style="list-style-type: none"> Decide whether and when to extend the CNMI-only permit program past 2014 (indefinitely, for up to 5 years at a time). 	<ul style="list-style-type: none"> Base decision on the labor needs of legitimate businesses in the CNMI. May consider (1) workforce studies on the need for foreign workers, (2) the unemployment rate of U.S. citizen workers in the CNMI, and (3) the number of unemployed foreign workers in the CNMI, as well as other information related to foreign worker trends. Consult with DHS, DOI, Department of Defense, and the Governor of the CNMI.

Source: GAO analysis of P.L. 110-229, Consolidated Natural Resources Act of 2008, May 8, 2008.

Note: During the transition period, the Secretary of Homeland Security, in consultation with the Secretaries of the Interior, Labor, and State, and the Attorney General, has the responsibility to establish, administer, and enforce a transition program to regulate immigration in the CNMI.

Key DHS Decisions

DHS decisions that will affect employers' access to foreign workers include the number of permits to allocate each year, the distribution of the permits, the terms and conditions of the permit program, and the fee for the permit.⁴⁷ To minimize any adverse effects of its decisions, DHS may consider information on the CNMI labor market. However, DHS may have difficulty in obtaining relevant data—such as data on the wages, occupations, and employment status of CNMI residents and foreign workers—because the federal sources generally used to generate such

⁴⁷ The legislation states that DHS shall set the conditions for admission under the CNMI-only work permit program and the Secretary of State shall authorize the issuance of nonimmigrant visas under the program.

data for the United States, including the Current Population Survey and the Current Employment Statistics program, do not cover the CNMI.⁴⁸

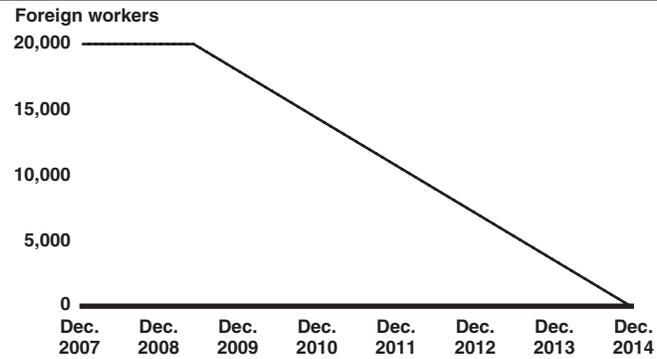
- **Number of permits.** Under the legislation, DHS will determine the rate at which it decreases the yearly allocation of CNMI-only work permits for foreign workers, provided that zero permits are valid or available at the end of the transition period. As shown in the examples of alternative DHS approaches in figure 6, based on December 2007 LIIDS data,⁴⁹ the number of CNMI-only work permits available in each year of the initial transition period depends on DHS's strategy for reducing CNMI-only permits to zero. For example, if DHS uses a linear strategy of reducing the permits to zero, the number of permits would decline by about half by the midpoint of the initial transition period. In contrast, DHS can apply strategies that reduce the number of permits modestly or even minimally by the midpoint of the initial transition period.

⁴⁸ U.S. Department of Labor, Office of the Assistant Secretary for Policy, *Impact of Increased Minimum Wages on the Economies of American Samoa and the Commonwealth of the Northern Mariana Islands* (Washington, D.C.: 2008). The Office of Insular Affairs of DOI has provided technical assistance to the CNMI to help with data collection, including funding for the 2005 HIES and past surveys of the CNMI. However, this assistance has not generated the scope of data collected by federal sources for the United States more generally.

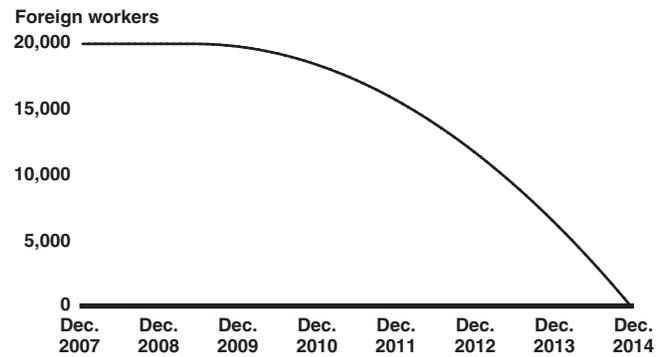
⁴⁹ We obtained data from the CNMI government on foreign workers holding the CNMI's nonresident worker entry permit (706K) as of December 31, 2007, from the CNMI LIIDS database. LIIDS is an administrative data system used to enforce CNMI labor laws that contains information on the individuals that have entered the CNMI for employment and other purposes. References in this report to LIIDS data on foreign workers exclude foreign workers employed by the CNMI government under the CNMI employee entry permit (706B), those with temporary work authorization (706P), religious missionaries (706M), and certain other categories. We did not receive from the CNMI government requested data on worker permit categories other than 706K; however, BMS data on entries to the CNMI show that 706K permit holders represent the large majority of CNMI foreign workers.

Figure 6: Illustrations of Alternative DHS Decisions Regarding Annual Reduction in CNMI-Only Work Permits for Foreign Workers

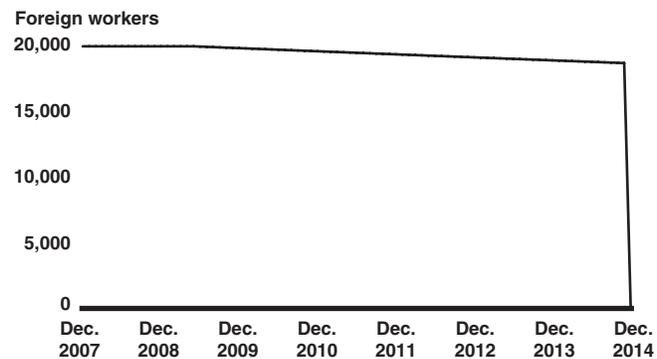
Linear: Reduces the permits at a constant rate to zero



Increasing rate: Increases the rate of reduction over the period to zero



Last Month: Slight decline until sharp drop in last month to zero



Source: GAO analysis of CNMI Labor and Immigration Identification and Documentation System (LIIDS) data.

Notes: Figures show numbers of CNMI-only work permits for foreign workers after the beginning of the transition period, assuming that the transition period begins in June 1, 2009, and that the number of available CNMI-only work permits never increases. Our analysis does not address the duration of the permits' validity, which DHS will determine.

For the number of foreign workers before and at the beginning of the transition period, we relied on CNMI LIIDS data showing 19,823 706K foreign worker permits active as of December 31, 2007; commenting on a draft of this report, the CNMI government stated that the number of 706K permits as of June 30, 2008, was 18,942.

In this analysis, foreign workers shown after the beginning of the transition period on June 1, 2009, are those with CNMI-only work permits; this analysis does not include any foreign workers allowed to remain in the CNMI without a CNMI-only work permit. The legislation specifies that foreign workers legally present in the CNMI as of the transition program effective date, but who do not obtain U.S. immigration status, may continue residing and working in the CNMI for a limited time—2 years after the effective date of the transition program or when the CNMI-issued permit expires, whichever is earlier.

- **Distribution of permits.** DHS decisions regarding the CNMI-only work permits' distribution will also affect employers' access to workers, particularly if the demand for the permits exceeds the supply. Following are four examples of distribution methods available to DHS:
 1. DHS could decide to distribute the permits through a lottery. Currently DHS distributes some visas, including H-1B visas, by random assignment for valid applications submitted during set periods of time.
 2. DHS might decide to distribute the permits among certain industries based on some measure of those industries' importance to the CNMI economy. However, because of the CNMI's changing economic environment, DHS may have difficulty in projecting some industries' likely long-term importance. In addition, if DHS decides to distribute permits based on industry data current at the time, permits might then be unavailable to businesses in any industries that subsequently developed.
 3. DHS could distribute the permits in a way similar to the current CNMI system, which distributes foreign worker permits through a combination of permits reserved for priority businesses and a lottery.
 4. DHS could use a market-based approach of permit trading, predetermining the number of permits to be allocated annually but

allowing employers to trade permits depending on their need for foreign workers.⁵⁰

- **Terms and conditions of the permit program.** The terms and conditions that DHS sets for the CNMI-only work permit program will affect employers' access to foreign workers. For example, any requirements regarding workers' skill levels or qualifications could limit the pool of available workers. A DHS decision to retain or end the current CNMI requirement that employers hire a certain percentage of local residents would also affect employers' access to foreign workers.⁵¹ In addition, if DHS chooses not to make employers responsible for foreign workers' medical costs, as current CNMI law requires, foreign workers will become relatively more affordable. In addition, decisions regarding the length of time that permits are valid could affect the ability of employers to effectively use them.

⁵⁰ Such approaches have been used, for example, in federal efforts to reduce pollution levels, such as the cap and trade program for sulfur dioxide under the Clean Air Act. See GAO, *Vehicle Fuel Economy: Reforming Fuel Economy Could Help Reduce Consumption by Cars and Light Trucks, and Other Options Could Complement These Standards*, [GAO-07-921](#) (Washington, D.C.: Aug. 2, 2007).

⁵¹ Under the federal immigration system, no percentage requirement exists for the hiring of local residents, but some visas require employers to demonstrate that they have been unable to hire U.S. workers. For example, federal immigration law requires that employers seeking to fill jobs with applicants for H-2B visas must demonstrate that they have been unable to identify a qualified U.S. worker for the position. Similarly, employers of H-2A applicants must certify through DOL that sufficient U.S. workers cannot be found to perform the labor and that the employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed U.S. workers. A recent proposed federal rule would increase the penalties for employers who could not demonstrate that they attempted to find a U.S. citizen for the position. However, without regulations implementing the federal legislation, it is unknown whether the CNMI-only work permit program will include requirements related to U.S. workers. According to DOL officials, such labor tests could help determine the need for foreign workers.

-
- **Permit fee.** The fee that DHS sets for the CNMI-only work permit may affect employers' access to foreign workers.⁵² Although the legislation requires that DHS charge employers an annual supplemental fee of \$150 per permit to fund CNMI vocational education, it is not yet known how the total permit fee will compare with the annual \$250 fee that employers currently pay for CNMI foreign worker permits.⁵³ However, if DHS sets a higher fee for the CNMI-only permit than the current CNMI foreign worker permit fee, this would increase employers' costs and reduce employers' ability or incentive to hire foreign workers instead of resident workers.

Key DOL Decision

DOL's decision whether to extend the CNMI-only work permit program, based on the unemployment rates of foreign workers and U.S. citizens, as well as other CNMI-specific data, will affect the availability of foreign workers. However, like DHS, DOL may encounter difficulty in obtaining up-to-date information about the CNMI labor market because the federal sources generally used to generate these data do not cover the CNMI.

- **Extension of the permit program.** A decision by the Secretary of Labor to extend the CNMI-only work permit program past 2014 would maintain access to the permits for up to 5 years at a time. According to the legislation, the Secretary could issue the extension as early as desired within the transition period and up to 180 days before the end of the transition period or any extensions of the CNMI-only permit program. DOL's decision is to be based on the needs of legitimate businesses⁵⁴ in the CNMI, as well as, among other information, the unemployment rate of U.S. citizen workers in the CNMI and the number of unemployed foreign workers in the CNMI. Alternately, the Secretary may decide not to extend

⁵² The legislation authorizes DHS to charge fees to recover the full cost of providing adjudication and naturalization services, including any administrative costs. While DHS has full authority to set fees for the CNMI-only permit program, the report of the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources on H.R. 3079 state that the Committees encourage DHS and other relevant federal agencies to keep the costs associated with the transition program period on employers and foreign workers at the same level as is currently assessed by the CNMI government under local law. See S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008) and H. Rep. 110-469, Amending the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for Other Purposes (Dec. 4, 2007).

⁵³ In addition to the annual fee of \$250 paid by employers, foreign workers in the CNMI are responsible for paying an annual alien registration fee of \$25.

⁵⁴ The determination of what constitutes a legitimate business, and the extent to which such a business requires foreign workers to supplement its workforce, is at the sole discretion of DHS.

the program, thus ending access to the CNMI-only work permit after 2014.⁵⁵ Representatives of the Hotel Association of the Northern Mariana Islands and the Saipan Chamber of Commerce said they preferred that any extension of the CNMI-only work permit program be announced as early as possible in the transition period or any extension of the CNMI-only permit program to provide businesses the maximum time for planning.

Additionally, while other nonimmigrant and immigrant visas generally available under U.S. law would continue to be available, we previously reported that after the end of the transition period and after any extensions of the CNMI-only work permit program, the legislation limits CNMI employers' access to foreign workers, particularly low-skill workers in continuous, nontemporary jobs.⁵⁶ Although the legislation contains provisions other than the CNMI-only work permit program that will affect foreign workers—including exemptions from H visa caps for nonimmigrant workers, the option to apply for nonimmigrant worker visas generally available under U.S. law, and the option to apply for employment-based permanent immigration status generally available under U.S. law—these provisions will likely affect a relatively small number of CNMI foreign workers (see app. V). As a result, our following analysis focuses on foreign workers with CNMI-only work permits.

⁵⁵ The report of the Senate Committee on Energy and Natural Resources on H.R. 3079 states that it is highly unlikely that the CNMI will be able to meet its labor needs and forgo the CNMI-only permit program in 5 years. The Committee expects there will be at least one, and probably more than one, 5-year extension. See S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008).

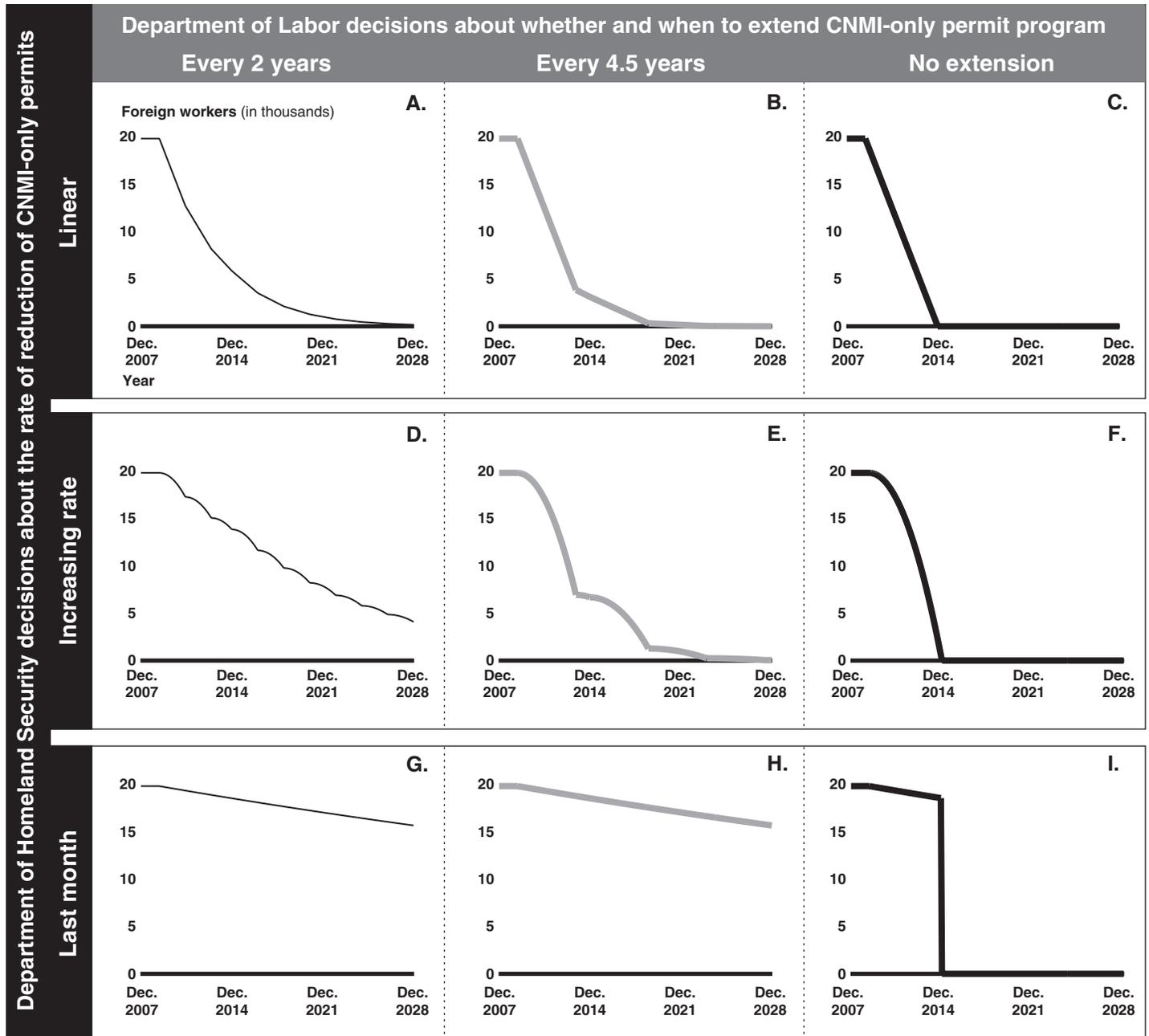
⁵⁶ [GAO-08-466](#). Also see appendix V of this report.

**Interaction of Agency
Decisions Could
Significantly Affect Access
to Foreign Workers, but No
Process Exists for
Coordinating Agency
Decisions under the
Legislation**

The interaction of DHS and DOL decisions regarding the CNMI-only work permit program could have a significant impact on employers' access to permits for foreign workers. However, the agencies have not yet identified a process for coordinating these decisions.

The rate and timing with which DHS lowers the available number of permits and the timing of any DOL extensions of the program will jointly determine the permits' availability. To illustrate a range of possible rates of reduction, figure 7 shows nine examples of alternate interactions of DHS and DOL decisions.

Figure 7: Illustrations of Potential DHS and DOL Decisions' Joint Effects on Access to CNMI-Only Work Permits for Foreign Workers



Source: GAO analysis of P.L. 110-229 and CNMI Labor and Immigration Identification and Documentation System (LIIDS) data.

Notes: The thin lines represent DOL's decision to extend the CNMI-only permit program every 2 years, the heavy gray lines represent DOL's decision to extend the program every 4.5 years, and the heavy black lines represent DOL's decision not to extend the program.

Figures show numbers of CNMI-only work permits, based on the assumptions that the transition period begins on June 1, 2009, and the number of permits never increases. Our analysis does not address the length of the permits' validity.

For the number of foreign workers before and at the beginning of the transition period, we relied on CNMI LIIDS data showing 19,823 706K foreign worker permits active as of December 31, 2007; commenting on a draft of this report, the CNMI government stated that the number of 706K permits as of June 30, 2008, was 18,942.

In this analysis, foreign workers shown after the beginning of the transition period on June 1, 2009, are those with CNMI-only work permits; this analysis does not include any foreign workers allowed to remain in the CNMI without a CNMI-only work permit. The legislation specifies that foreign workers legally present in the CNMI as of the transition program effective date, but who do not obtain U.S. immigration status, may continue residing and working in the CNMI for a limited time—2 years after the effective date of the transition program or when the CNMI-issued permit expires, whichever is earlier.

Although DOL may extend the program for 5 years or less at a time, our analysis assumes a 5-year duration for any extensions occurring after the transition period. Our analysis also assumes that if the program is extended after the end of the initial transition period, the timing for frequency of extensions will begin in January 2015.

The figures extend through 2028 to show the year in which CNMI-only work permits approach zero for the majority of the joint decisions.

- As shown in figure 7(A) and 7(B), if DHS lowers the annual allocation of CNMI-only permits by the same number each year (a linear decline) and DOL extends the program every 2 years, the number of permits will decline less rapidly than if DOL extends the program every 4.5 years.
- Alternatively, as figure 7(G) shows, if DHS decides not to substantially decrease the number of CNMI-only permits until the last month of the 5-year period and DOL extends the program every 2 years, the number of permits will never rapidly decline, and by 2028 will not have substantially declined.
- In contrast, as shown in figure 7(I), if DHS decides not to substantially decrease the number of CNMI-only permits until the last month and DOL does not extend the program, the number of CNMI-only permits will fall to zero in 2014.

The legislation requires DHS and DOL to coordinate their implementation of the legislation, including the CNMI-only work permit program, with one

another and with other relevant agencies.⁵⁷ However, the agencies have not yet identified the interagency process that they will use.⁵⁸

Rate of Decline in Availability of CNMI-Only Permits for Foreign Workers Will Partly Determine Impact on CNMI Economy

The rate at which the availability of CNMI-only work permits for foreign workers declines as a result of DHS's and DOL's joint decisions will partly determine the legislation's impact on the CNMI labor market and therefore on the CNMI's economy. Because of foreign workers' prominence in the CNMI labor market, any substantial and rapid reduction in the numbers of CNMI-only permits for foreign workers would have a negative effect on the size of the CNMI economy. However, federal agencies may make more modest reductions in CNMI-only permits, resulting in minimal effects on the economy.⁵⁹ Projecting the economic impact of a reduction in foreign workers is complicated by the dependence of some CNMI resident workers' productivity on the presence of foreign workers. For example, the employment of CNMI residents as tour guides may depend on the employment of foreign workers as hotel staff. Because some CNMI resident workers' employment depends on foreign workers, the overall effect of the removal of foreign workers is difficult to project.

To illustrate a range of possible impacts on the CNMI economy given varying rates of reduction in the number of CNMI-only work permits for foreign workers, we generated simulations, estimating the impact on the CNMI's economy by an index representing total GDP. Figure 8 presents a subset of the results of these simulations—these are based on the

⁵⁷ In addition, we previously found that collaborative efforts require agency staff to agree on roles and responsibilities and to define and articulate a common outcome or purpose, among other key practices. See GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

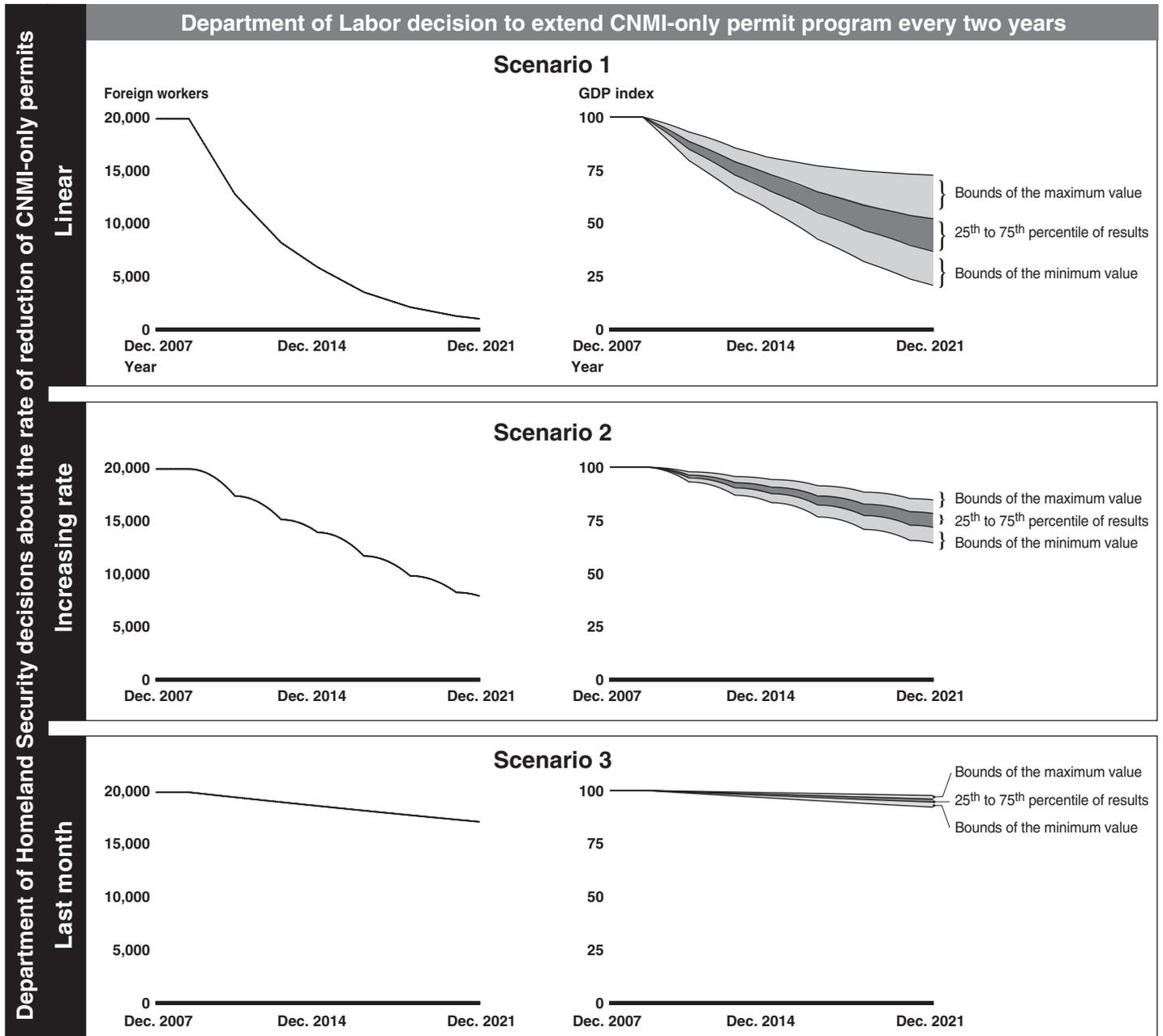
⁵⁸ However, DOI recently convened a meeting with officials of federal agencies including DHS, DOL, and the Department of State to discuss future coordination on legislation implementation.

⁵⁹ The quantity of labor, or number of workers, is a key factor in determining the quantity of goods and services that an economy can produce. For the U.S. economy, under certain assumptions, a 10 percent reduction in the number of all workers might be expected to cause a 7 percent decline in production, measured as gross domestic product. See Andrew B. Abel and Ben S. Bernanke, *Macroeconomics*, 5th ed. (New York: Addison-Wesley Publishing Co., 2005).

scenarios shown in figure 7 (A), (D), and (G).⁶⁰ Because these simulations do not allow for other changes in the CNMI over the coming years, they should not be considered as predictive of future GDP. Rather, these simulations are intended to illustrate a range of potential impacts on the CNMI's GDP that could result from some of the joint U.S. agency decisions depicted in figure 7.

⁶⁰ Although we could have attempted to estimate other aspects of the effect of the reduction of foreign workers on the CNMI economy, such as the average earnings of CNMI residents, we selected total GDP in order to measure the effect of reductions in foreign workers on the overall economy—and the basis of CNMI government tax revenue—rather than on any particular group. The simulations treat all foreign workers as being employed in full-time positions. Additionally, each simulation varied the assumptions regarding the similarity, or substitutability, of foreign workers and CNMI resident workers. See appendix VI for more details. Because of the nature of the mathematical models we used, we could not consider the case in which the number of foreign workers equals to zero.

Figure 8: Examples of Scenarios Illustrating U.S. Agency Decisions' Potential Joint Impact on Access to CNMI-Only Work Permits for Foreign Workers and CNMI Gross Domestic Product



Source: GAO analysis of P.L. 110-229 and CNMI Labor and Immigration Identification and Documentation System (LIIDS) data.

Notes: This analysis is based on some of the possible joint effects of DHS and DOL decisions illustrated in figures 7 (A), (D), and (G). Because this analysis does not allow for other changes in the CNMI over the coming years, it should not be considered as predictive of future GDP.

In the graphs on the left-hand side of each scenario, the lines represent reduction in the numbers of CNMI-only work permits for foreign workers. The graphs on the right-hand side of each scenario represent 10,000 simulations of the CNMI GDP (indexed to be 100 in 2007) under various assumptions. The darker area represents the middle 50 percent of results, specifically the 25th to 75th percentile, while the lighter area represents the bounds of the minimum and maximum value.

This analysis assumes that technology, capital, and the total number of employed CNMI residents remain constant. In addition, this analysis treats all foreign workers as being employed in full-time positions. Further, this analysis does not reflect potential changes in demand for foreign workers absent the legislation. Finally, this analysis does not account for the role of foreign workers under programs other than the CNMI-only permit program. See appendix VI for more details.

In this analysis, foreign workers shown after the beginning of the transition period on June 1, 2009, are those with CNMI-only work permits; this analysis does not include any foreign workers allowed to remain in the CNMI without a CNMI-only work permit. The legislation specifies that foreign workers legally present in the CNMI as of the transition program effective date, but who do not obtain U.S. immigration status, may continue residing and working in the CNMI for a limited time—2 years after the effective date of the transition program or when the CNMI-issued permit expires, whichever is earlier.

Because of the nature of the functional form used, we could not use it to evaluate the portion of those scenarios in which the number of CNMI-only work permits is equal to zero.

As the scenarios in figure 8 show, a greater decline in permits for foreign workers leads to a larger drop in GDP, as well as a greater range of possible effects across the simulations.

- Scenario 1 shows that a steep decline in CNMI-only permits for foreign workers, from about 20,000 to about 1,000 by 2021⁶¹—caused by a linear reduction in the number of CNMI-only work permits and a renewal of the permit program every 2 years—would lower the CNMI's GDP to a range of about 21 percent to 73 percent of its current value by 2021.
- Scenario 2 shows that a less precipitous decline in CNMI-only permits for foreign workers, from about 20,000 to about 8,000 by 2021—caused by an increasing reduction in the number of CNMI-only work permits and a renewal of the permit program every 2 years (before the years with the steepest decline in foreign workers)—would lower the CNMI's GDP to a range of about 64 percent to 85 percent of its current value by 2021.
- Scenario 3 shows that a much smaller decline in CNMI-only permits for foreign workers, from about 20,000 to about 17,000 by 2021—caused by a rapid reduction in the number of CNMI-only permits in the last month of

⁶¹ Because foreign workers comprise 60 percent of the CNMI labor market, the decline in these workers shown in scenario 1 would reduce total CNMI employment by almost 60 percent.

the program and a renewal of the permit program every 2 years (before the month when the greatest reduction in permits occurs)—would lower the CNMI's GDP to a range of about 98 percent to no less than about 92 percent of its current value by 2021.

Figure 8 illustrates the simulated impact on GDP related to one possible DOL decision—renewing the CNMI-only permit program every 2 years—interacting with possible DHS decisions, as depicted in figure 7 (A), (D), and (G). Applying the GDP simulation methodology to the other scenarios in figure 7 would yield more rapid declines in GDP, corresponding to the more rapid declines in CNMI-only work permits for foreign workers related to DOL decisions not to extend the CNMI-only permit program or to extend it every 4.5 years.

Ideally, the effect of the decline in the number of foreign workers on the CNMI GDP would be compared to a baseline of what would have happened to the CNMI economy without the legislation. However, because of a lack of data on the total production of the CNMI economy, we were unable to provide a numerical projection of future GDP. For example, the most recent estimate of CNMI GDP available was for 2002 and presented a range of almost \$250 million, with a midpoint of \$875 million.⁶² Although we are unable to present a numerical prediction, the following sections—which discuss a number of emerging factors affecting the CNMI economy that may decrease demand in the CNMI for foreign workers—provide a context for the GDP analysis.

Other Factors May Reduce Demand for Foreign Workers, Lessening the Impact of the Legislation

Although U.S. agencies' implementation of the legislation may reduce the availability of foreign workers, continuing declines in the garment industry and challenges to the tourism industry may lower demand for these workers. Increases in the CNMI's minimum wage may also lower demand for foreign workers, although the likely extent of this impact cannot be determined. Efforts to replace foreign workers with CNMI residents could, if successful, further mitigate any effects of the legislation's provisions reducing the number of CNMI-only work permits; however, factors such as

⁶² In 2005, the International Programs Center (IPC) of the U.S. Census Bureau, under contract to the U.S. Department of Interior, estimated that CNMI GDP was between \$753 million and \$977 million in 2002. See Marc Rubin and Selma Sawaya, *Final Trip Report on Benchmark Estimates of 2002 Gross Domestic Product in the Commonwealth of the Northern Mariana Islands* (Washington, D.C.: U.S. Bureau of the Census, 2005).

Declines in Garment Industry
and Challenges to Tourism May
Lessen Demand for Foreign
Workers

the limited number of available CNMI residents may impede these efforts' effectiveness.

Continuing challenges to industries that employ foreign workers may reduce future demand for foreign workers from their current numbers, lessening the impact of any agency decisions to reduce the number of foreign workers in implementing the legislation and allowing some reductions without adverse effect.

The number of foreign workers in the CNMI has fallen in recent years prior to the legislation's passage, owing in part to declines in the garment industry and challenges in the tourism industry. From 2000 to 2005, the number of noncitizen workers, many of whom are foreign workers, dropped from about 35,000 in 2000 to about 28,000 in 2005. Moreover, based on CNMI BMS data, more foreign workers have left the CNMI than have entered each year since 2005, indicating that their numbers have continued to fall. Declines in the garment industry and challenges to the tourism industry account for some of these reductions in foreign workers. Since the elimination of textile quotas, exports from the garment industry have fallen. The tourism sector also has faced challenges as visitor arrivals have declined from historic levels. Any further declines in these sectors would likely result in reduced demand for foreign workers, allowing for some future reductions in access to foreign workers without adverse effect from the legislation.⁶³ However, in commenting on a draft of this report, the CNMI government stated that the MVA predicted that the number of visitors to the CNMI will increase in the coming years. Additionally, to the extent that the military buildup in Guam creates opportunities for CNMI employers, it may increase demand for foreign workers.

Other factors may reduce demand for foreign workers indirectly. For example, reductions in the demand for workers in the garment and tourism sectors impact demand for workers, including other foreign

⁶³ According to economic reasoning, the presence of a minimum wage makes it less likely that reduced demand for foreign workers will result in lower wages rather than in decreases in the number employed.

Scheduled Increases in the Minimum Wage Will Further Reduce Demand for Foreign Workers, but Extent of Likely Impact Is Not Known

workers, in other sectors in the economy.⁶⁴ In addition, declines in the economy and household incomes may reduce demand for foreign workers in domestic positions, such as those in gardening and housekeeping, currently common in the CNMI.⁶⁵ Finally, if the federal immigration legislation affects the tourism industry or the CNMI’s ability to attract foreign investors, it may also affect demand for foreign workers.

The recent and continuing scheduled increases in the CNMI’s minimum wage are likely to further reduce the demand for foreign workers. The wage increases will affect foreign workers disproportionately; however, the magnitude of the wage increases’ impact on these workers cannot be determined.

Based on the most recent LIIDS data, most jobs held by foreign workers pay \$4.05 per hour—the CNMI minimum wage as of May 2008—or less. Table 2 presents, by industry, the percentage of foreign workers whose recent contracts show wages of no more than this amount.⁶⁶

Table 2: Percentage of CNMI Foreign Workers Earning No More Than Current Minimum Wage of \$4.05 per Hour

Industry	
Total	83.2%
Private household	99.5
Garment	97.9
Construction	82.5
Services	77.4
Hotel	66.9

Source: GAO analysis of CNMI Labor and Immigration Identification and Documentation System (LIIDS) data.

⁶⁴ The impact that reductions in employment in one sector can have on another in the CNMI is supported by the results of a CNMI-specific input-output model. Specifically, the authors estimated that in 1995 every garment worker supported .5 other jobs, while every tourism worker supported .8 other jobs. See Northern Marianas College, Business Development Center, *An Economic Study for the Commonwealth of the Northern Mariana Islands*. This report was cited in GAO, *Northern Mariana Islands: Garment and Tourist Industries Play a Dominant Role in the Commonwealth’s Economy*, [GAO/RCED/GGD-00-79](#) (Washington, D.C.: Feb. 14, 2000).

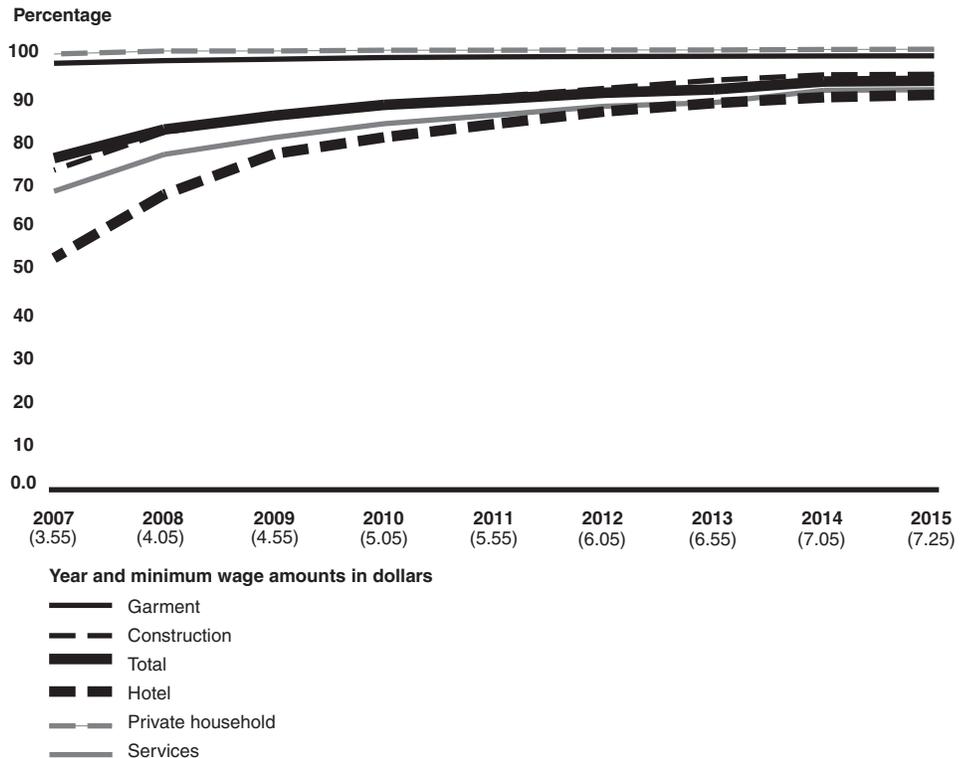
⁶⁵ Based on the 2005 HIES, there were approximately 16,000 households, with over 900 private household workers—one domestic worker per every 17 households—in the CNMI.

⁶⁶ Because LIIDS data is based on approved applications, and because of processing time, it may not be fully reflective of current wage rates.

Note: LIIDS data are from December 31, 2007. The total line includes some LIIDS categories not depicted, such as banking and restaurant workers.

The scheduled minimum wage increases will affect the wages of almost all foreign workers in the CNMI and will continue to affect more workers as the wage increases each year. As figure 9 shows, based on December 2007 LIIDS data, almost 95 percent of foreign workers in the CNMI do not earn more than the \$7.25 minimum wage scheduled for 2015.

Figure 9: Percentage of CNMI Foreign Workers Who Will Be Affected by Minimum Wage Increases, by Industry



Source: GAO analysis of Labor and Immigration Identification and Documentation System (LIIDS) data.

Note: The figure shows the percentage of current CNMI foreign workers who will be affected because their wages are at or below the minimum wage. Total line includes some LIIDS categories not depicted, such as banking and restaurant workers. Data are from December 2007. We did not verify that the minimum wage would apply to all of the workers included in the figure.

The minimum wage increase will likely affect U.S. citizen workers to a lesser degree. For example, those working in public administration—almost 33 percent of employed U.S. citizens in the CNMI based on the 2005 CNMI HIES—earn, on average, more than the current minimum wage of

\$4.05 in the CNMI. Our analysis of HIES survey data shows that the average wage for CNMI resident workers in 2004 was \$8.60, whereas the average wage for temporary non-U.S. citizens was \$4.40.⁶⁷

According to current economic research, the minimum wage increases will decrease the number of foreign workers demanded by CNMI employers. The minimum wage increases may also have indirect effects resulting in firm closures, further reducing the demand for foreign workers.

It is difficult to estimate the extent to which the minimum wage increases might decrease the number of foreign workers demanded by employers in the CNMI.⁶⁸ However, the large number of CNMI foreign workers now earning no more than the current minimum wage makes it likely that the scheduled wage increases will have a negative effect on the number of foreign workers employed.⁶⁹

Recent Legislation and CNMI Government Have Goals of Preparing Resident Workers to Replace Foreign Workers, but Several Factors May Impede These Efforts

The CNMI has begun efforts to prepare CNMI residents to replace foreign workers. If successful, these efforts could lessen any impact the legislation may have regarding access to foreign workers. In 2007, the Jobs Study Committee reporting to the CNMI Office of the Public Auditor found that some desirable jobs held by foreign workers could be filled by CNMI residents,⁷⁰ and the CNMI has taken steps to help residents obtain these

⁶⁷ References to foreign workers derived from the 2005 HIES data are based on respondents who identified their status as “not a U.S. citizen, temporary resident.” This category includes individuals not included in the LIIDS data referenced in this report, which is limited to 706K visa holders, and not other categories, such as government or religious workers.

⁶⁸ Economic reasoning suggests that while the minimum wage increases the wages of workers because the number of workers demanded by employers falls with the wage, it also reduces the number of workers demanded. However, particularly since the early 1990s, economists have debated the overall effects of a minimum wage increase on low-wage employment. According to a recent review of this literature, although there may be consensus that the overall effect is negative, there is no consensus on the size of the effect. For discussion of the economic literature on the effect of the minimum wage, see David Neumark and William Wascher, “Minimum Wages and Employment,” *Foundations and Trends in Microeconomics*, vol. 3, no. 1-2 (2007): 1-182.

⁶⁹ Our report did not assess the overall impact of the minimum wage increases on the CNMI economy, including the impact on the living standards in the CNMI. Our scope was limited to the possible effects of the minimum wage increases on the demand for foreign workers.

⁷⁰ “Jobs Study Committee Recommendations,” memo from Charles Cepeda, Alex Sablan, and Josephine Mesta to Michael S. Sablan (CNMI Public Auditor), May 30, 2007.

jobs. For example, the CNMI Workforce Investment Agency is developing a Web site to allow job seekers to quickly find potential openings. In addition, the Strategic Workforce Action Team, comprising government officials and local educators, has proposed to coordinate curricula and employment opportunities. Moreover, CNMI law has required CNMI employers to hire 20 percent of their employees from local residents; this percentage increased to 30 percent on January 1, 2008, under the new CNMI labor and immigration law.

In addition, the recent federal legislation requires the U.S. government to provide funding for vocational education, as well as technical assistance to the CNMI. For example, the \$150 fee charged to employers obtaining a CNMI-only work permit is to be used to fund ongoing vocational education curricula and program development by CNMI educational entities. Moreover, the legislation requires the Secretary of the Interior to provide technical assistance to the CNMI to promote economic growth; to assist employers in recruiting, training, and hiring U.S. citizens and, if necessary, lawful permanent residents in the CNMI; and to develop CNMI job skills as needed.⁷¹

The most recent LIIDS data from December 2007 suggest that about 20,000 foreign workers currently live in the CNMI.⁷² Although it is too early to assess the CNMI's efforts to replace foreign workers with CNMI residents, several factors may impede these efforts' effectiveness.

- According to the CNMI Office of the Public Auditor, only an estimated 400 high school and college graduates seek full-time employment in the CNMI each year.
- Moreover, according to CNMI government representatives, some CNMI residents are leaving the CNMI for opportunities in the United States. In addition, the attractiveness of Guam may increase if the military buildup leads to additional jobs.

⁷¹ According to the recent legislation, in providing the technical assistance, the federal government should consult with the CNMI government, local businesses, regional banks, and other CNMI economy experts. The CNMI must contribute a nonfederal matching requirement of 10 percent for the provision of technical assistance.

⁷² Commenting on a draft of this report, the CNMI government stated that the number of 706K permits as of June 30, 2008, was 18,942.

-
- The number of nonworking residents who might accept a job is less than the total number of foreign workers. Specifically, there are approximately 2,600 unemployed U.S. citizens and permanent residents in the CNMI.⁷³
 - Some foreign workers possess skills that are currently rare among residents, such as language skills. Additionally, some foreign workers' ability to perform professional jobs may make it difficult to replace these workers with CNMI residents.
 - According to representatives of the CNMI Chamber of Commerce and the Hotel Association of the Northern Mariana Islands, hiring CNMI residents is also difficult because some are reluctant to perform tasks currently completed by foreign workers.

Recent Legislation's Possible Impact on CNMI Tourism Depends Largely on Federal Agency Decisions

Any impact of the legislation on the CNMI's tourism sector will depend largely on federal regulations specifying the countries to be included in the joint CNMI-Guam visa waiver program. For countries likely to be included in the joint visa waiver program because they currently are included in the Guam visa waiver program, such as Japan and South Korea, the impact is likely to be minimal. For countries that may not be part of the joint visa waiver program because they currently are not included in the Guam visa waiver program, possibly including China and Russia, applying for a visa from U.S. embassies or consulates will likely be more costly and more time-consuming than obtaining a visitor entry permit under CNMI immigration law. To the extent that tourists facing increased costs and time in obtaining a visa may choose destinations other than the CNMI, the legislation could have a negative impact on CNMI tourism. The likely impact on the CNMI of sharing the joint program with Guam is unclear.

⁷³ As previously noted, the Current Population Survey, the standard source for computing unemployment rates within the United States, does not include the CNMI. However, according to the CNMI 2005 HIES, the CNMI labor force included approximately 10,300 U.S. citizens, or about 60 percent of the population of U.S. citizens of working age. Of this number, approximately 2,100—about 20 percent—were unemployed. Additionally, there are approximately 500 unemployed permanent residents. The unemployed included respondents who were looking for work during the previous 4 weeks and were available to accept a job but did not include those who had been discouraged from looking for work and had left the labor force. As a result, it may undercount those who might accept an offered job. However, CNMI government officials said they believed the HIES unemployment rate was an overcount. For comparison, in April 2008, the labor force participation rate in the United States was 66 percent.

DHS Will Determine Countries to Be Included in the Joint CNMI-Guam Visa Waiver Program

Changes in tourists' access to the CNMI will depend on DHS's decisions, in consultation with the Department of State, DOI, and the Governors of the CNMI and Guam, regarding the countries to be included in the CNMI-Guam visa waiver program. One stated intent of the recent legislation is to expand tourism and economic development in the CNMI, including aiding prospective tourists in gaining access to the CNMI's tourist attractions, such as memorials, beaches, parks, and dive sites. The legislation establishes a joint visa waiver program by adding the CNMI to an existing Guam visa waiver program.⁷⁴ The joint program exempts tourism and business visitors from certain countries who are traveling to the CNMI and Guam for up to 45 days from the standard U.S. visa documentation requirements.⁷⁵ As shown in table 3, the legislation states that the CNMI-Guam visa waiver country list shall include any country from which the CNMI has received a significant economic benefit from the number of visitors for pleasure for the year prior to the enactment of the legislation, unless DHS determines that a country's inclusion on the list would represent a threat to the welfare, safety, or security of the United States or its territories, and considering other factors.⁷⁶ However, the legislation does not clearly define what constitutes a "significant economic benefit." The Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources encouraged DHS to consider benefits

⁷⁴ See appendix VIII for the countries currently included in the U.S., CNMI, and Guam waiver programs. Under U.S. visa waivers, visitors may enter for up to 90 days. Under CNMI entry permit waivers, the length of admission is also up to 90 days. Under Guam visa waivers, visitors may enter for up to 15 days, while citizens from countries eligible for the U.S. Visa Waiver Program may enter for 90 days. See [GAO-08-466](#) for more information about the legislation's requirements related to tourists in the CNMI.

⁷⁵ DHS must identify the countries within 180 days of enactment of the legislation, by November 4, 2008.

⁷⁶ The regulations must also include any bonding requirements for nationals of some or all of the countries who may present an increased risk of overstays or other potential problems, if those requirements are different from those generally applicable to nonimmigrants under the INA. DHS is required to monitor the admission of nonimmigrant visitors to the CNMI and Guam and has the authority to suspend a particular country from the visa waiver program if DHS determines that an unacceptable number of visitors from that country are remaining unlawfully in either the CNMI or Guam, unlawfully obtaining entry into other parts of the United States, seeking asylum, or contesting removal. In addition, DHS may suspend a country from the program if it determines that the country poses a risk to the law enforcement or security interests of the United States, the CNMI, or Guam. DHS can also suspend the visa waiver program on a country-by-country basis for other good cause. See [GAO-08-466](#).

measured in terms of hotel occupancy, length of stay, and expenditures.⁷⁷ Tourists who do not qualify for entry under the CNMI-Guam program may apply for U.S. visitor visas for business or pleasure, which require in-person applications and higher fees than the CNMI currently assesses. (See app. VIII for the countries currently included in the U.S., CNMI, and Guam waiver programs.)

Table 3: Key Federal Implementation Decision Related to CNMI Tourism

Key federal implementation decision	Legislative requirements and authorizations
Secretary of Homeland Security	
<ul style="list-style-type: none"> Determine countries to include in the CNMI-Guam visa waiver program, in consultation with the Department of State, DOI, and the Governors of the CNMI and Guam. 	<ul style="list-style-type: none"> Shall include any country from which the CNMI has received a significant economic benefit from the number of visitors for pleasure for the prior year, unless the country's inclusion would pose a security threat. Governors of the CNMI and Guam may petition to have countries added.

Source: GAO analysis of P.L. 110-229, Consolidated Natural Resources Act of 2008, May 8, 2008.

Note: The legislation does not clearly define what constitutes a "significant economic benefit."

Legislation Likely Impacts a Small but Important Portion of CNMI Tourism Market

The application of federal immigration law may affect a small portion of the CNMI's tourism market. Currently, approximately 80 percent of the tourists visiting the CNMI come from Japan (55 percent) and South Korea (25 percent), as shown in figure 10. Because Japan is included in the current U.S. and Guam visa waiver programs and will likely be included in the CNMI-Guam visa waiver program, the legislation is likely to have minimal impact on Japanese tourists visiting the CNMI. However, new screening requirements to be implemented for countries included in the

⁷⁷ The report of the Senate Committee on Energy and Natural Resources on H.R. 3079 and the House Committee on Natural Resources on H.R. 3079 state that in drafting regulations, the Committees encourage DHS to consult with the CNMI tourism industry to determine which tourist markets have contributed to the benefit of the CNMI economy and that such benefit can be measured in terms of hotel occupancy, length of stay, and expenditures. S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008), and H. Rep. 110-469, Amending the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for Other Purposes (Dec. 4, 2007). In addition, the Governors of the CNMI and Guam may petition DHS and DOI to have countries added to the visa waiver program list.

U.S. Visa Waiver Program may pose some additional obstacles.⁷⁸ South Korea is currently included in the Guam visa waiver program but is not included in the CNMI and U.S. waiver programs; however, the United States is considering extending visa waiver status to South Korea.⁷⁹ If South Korea is included in the CNMI-Guam visa waiver program, which is likely given its current status, the legislation may have a slightly positive impact by removing the current CNMI entry permit requirement for South Korean tourists.⁸⁰

A key DHS decision will be whether to include China and Russia in the joint visa waiver program, adding them to the existing Guam visa waiver program. Tourists from China and Russia account for a smaller proportion of the overall CNMI tourist arrivals—approximately 10 percent and less than 1 percent of CNMI tourist arrivals, respectively. However, according to representatives of the CNMI tourism sector, China and Russia are considered important markets because of their recent and potential future growth. For example, the Chinese market has grown by a factor greater than 15 in a decade, from 2,487 visitors in fiscal year 1997 to 41,024 visitors in fiscal year 2007. Furthermore, although small in number, the Russian market is becoming increasingly important because visitors from Russia tend to stay longer and spend more in the CNMI than do tourists from other countries. According to MVA data, Russian tourists stay an average

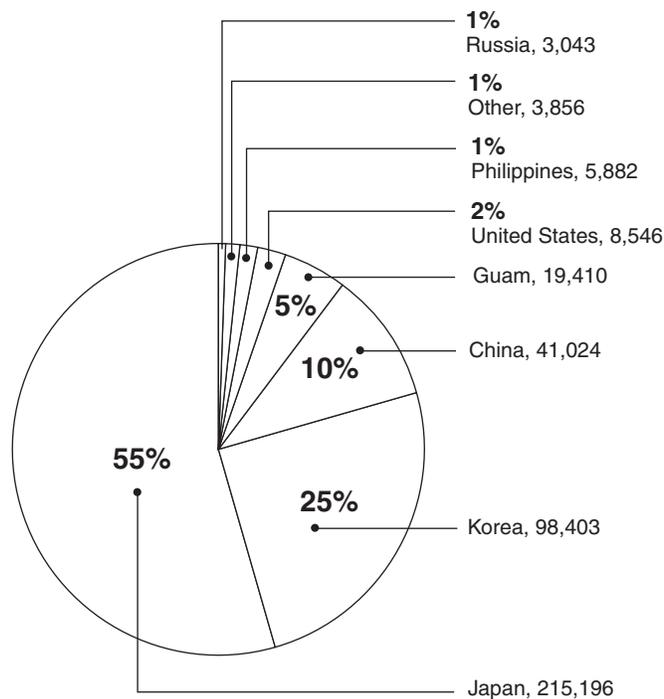
⁷⁸ The Secretary of Homeland Security, in consultation with the Secretary of State, is required by law (Pub.L. No. 110-53, 121 Stat. 344 (Aug. 3, 2007)) to develop and implement a fully automated electronic travel authorization system to collect biographical and other information. The information is to be collected in advance of travel, so that DHS can determine the eligibility of, and identify any law enforcement or security risk in permitting, the visitor to travel to the United States. The final interim regulation was published in June 2008, which provides information on how the system will be implemented.

⁷⁹ In July 2006, we reported that DHS and the Department of State were consulting with 13 countries, including South Korea, seeking admission into the U.S. Visa Waiver Program. The other countries were Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Romania, and Slovakia. In August 2007, Congress passed legislation that provides DHS with the authority to admit countries with refusal rates for business and tourism visas between 3 and 10 percent under the Visa Waiver Program if the countries meet certain conditions and if DHS implements certain security measures. South Korea's refusal rate in fiscal year 2007 was 4.4 percent. See GAO, *Process for Admitting Additional Countries into the Visa Waiver Program*, [GAO-06-835R](#) (Washington, D.C.: July 28, 2006) and GAO, *Visa Waiver Program: Limitations with the Department of Homeland Security's Plan to Verify Departure of Foreign Nationals*, [GAO-08-458T](#) (Washington, D.C.: Feb. 28, 2008).

⁸⁰ For South Korean tourists 55 years or older who currently come to the CNMI, the impact is likely to be minimal because they can enter the CNMI with the comity entry permits and are not required to obtain regular visitor entry permits.

of 9 nights, whereas tourists from Japan, South Korea, and China stay an average of 3 to 4 nights. In addition, according to CNMI tourism sector representatives, Russian tourists also tend to spend more on luxury items.⁸¹

Figure 10: CNMI Visitors' Countries of Origin, Fiscal Year 2007



Source: GAO analysis of Marianas Visitors Authority (MVA) data.

Note: MVA began including Hong Kong tourist arrivals in data on China as of October 2006. In this figure, "other" includes arrivals from Taiwan (454 arrivals in 2007). The total number of visitors for fiscal year 2007 was 395,360.

⁸¹ In its comments on a draft of this report, the CNMI government said the average Russian stay was 13.5 rather than 9 days, but it did not provide additional data. MVA and the Hotel Association of the Northern Mariana Islands track and provided us with data on CNMI tourism, including hotel occupancy rates, the number of visitors for business and pleasure from each country, length of stay, and cost of various tour packages from different countries. We did not identify any data on the number of visitors for pleasure only. In July 2008, a report by the CNMI and Guam tourism industry and government officials presented some data on tourists' expenditures by countries of citizenship.

New Visa Requirements for Nonwaiver Visitors Will Likely Increase Cost, Time, and Uncertainty, Possibly Affecting CNMI Tourism

For tourists from countries not included in the CNMI-Guam visa waiver program, the legislation will likely increase the costs and time associated with obtaining visitor visas. Table 4 compares the costs, requirements, and time related to obtaining a CNMI visitor entry permit with those related to obtaining a U.S. visitor visa.

Table 4: Comparison of Current CNMI Visitor Entry Permit Program with U.S. Visitor Visa Program, for Nonwaiver Program Visitors

	CNMI visitor entry permit	U.S. visitor visas
Cost	No fee or \$100 fee if request is submitted 7 days or less from intended date of arrival	\$131, as well as visa issuance fees varying by country
Interview requirements	None	In-person interview at embassies or consulates
Interview wait time ^a	No interview required	Depending on the post: China: 6 to 44 days South Korea: 8 days Russia: 6 to 17 days (as of May 13, 2008, for visitor visas)
Processing time	7 days or less, according to the CNMI government	Depending on the post: China: 2 to 3 days South Korea: 3 days Russia: 2 to 6 days (as of May 13, 2008, for nonimmigrant visas overall)
Visitor entry permit/visa refusal rate ^b	The CNMI government does not track data on entry permit refusal rates	China: 24.5% South Korea: 3.6% Russia: 15.3% (fiscal year 2006)
Sponsorship and bonding requirements	<ul style="list-style-type: none"> • Cash bond in an amount not to exceed \$1,500, returnable upon proof of the alien's timely departure; or • proof that the alien, or the party sponsoring the alien, is currently employed in a position that pays more than \$20,000 per year; or • proof that the alien's sponsor has maintained a balance of \$3,000 in a CNMI bank account for at least 3 months prior to the visitor's expected arrival date. 	None

Sources: CNMI and U.S. Department of State data.

Note: CNMI entry permit for visitors is 703A. U.S. visas for temporary visitors are B-1 for business, B-2 for pleasure, or B1-B2 for combined business and pleasure.

^aInterview wait time is reported by the U.S. Department of State. We previously found that the data are not sufficiently reliable to determine the number of posts with 30 or more days of wait time. We report the data above to illustrate the ranges of possible wait times.

^bThe U.S. Visa Waiver Program visa refusal rate is based on the number of visitor (B) visa applications for short-term business or pleasure submitted, worldwide, by nationals of each country.

Implementation of the U.S. visa process for the CNMI is likely to add costs, inconvenience, and uncertainties for tourists. For example, if China is not included in the joint visa waiver program, visa fees could add close to 20 percent to tour package costs for Chinese tourists.⁸² In-person visa interviews will impose additional inconvenience and cost. However, most tourists from China will not likely have to travel great distances to apply for visas because the CNMI currently markets only to tourists in Chinese cities with U.S. embassies or consulates. CNMI tourist industry representatives also expressed concerns that some Russian tourists may need to travel long distances to U.S. embassies or consulates to apply for visas. While Russian tourists can apply for visas from U.S. consulates in the region, such as the U.S. consulate in Vladivostok in Far Eastern Russia, and do not need to travel to Moscow, others may need to travel long distances. In addition, the new visa requirements will add uncertainty to the application process. According to Department of State data, 24.5 percent of visitor visa applicants from China and 15.3 percent from Russia are refused entry after paying application fees and attending interviews.

To the extent that tourists facing increased costs and time in obtaining a visa may choose destinations other than the CNMI, the legislation could have a negative effect on CNMI tourism. A CNMI tourism sector representative expressed concerns that added costs and inconvenience would deter tourists from visiting the CNMI and would make the CNMI less competitive with other Asian and Pacific destinations.⁸³ Currently, because Guam requires U.S. visas and the CNMI does not, the CNMI has a competitive advantage over Guam in attracting Chinese tourists and has

⁸² Tour packages from China typically cost around \$700 to \$850 per person. According to MVA, tour packages normally include air fare, hotel accommodation, and transportation from airport to hotel. MVA data also indicate that the typical length of stay for Chinese tourists is approximately 3 nights.

⁸³ In addition, because a U.S. visitor visa, unlike the current CNMI system, does not require sponsors or bonding, CNMI tourist sector representatives expressed concerns about potential increases in overstays.

far more Chinese tourists than Guam.⁸⁴ See table 5 for a summary of the likely impact on tourists from Japan, South Korea, China, and Russia.

Table 5: Recent Legislation’s Likely Impact on Tourists from Japan, South Korea, China, and Russia

	Current CNMI status	Current U.S. status	Importance of market to CNMI tourism	Likely impact from legislation
Japan	Visitor entry permit waiver; comity permit for visitors 55 years and older.	Visa waiver.	Largest market for CNMI tourism (55%).	Minimal impact. New screening requirements to be implemented for U.S. Visa Waiver Program may pose some additional obstacles.
South Korea	No visitor entry permit waiver; comity permit for visitors 55 years and older.	No waiver under the U.S. Visa Waiver Program, but included in the Guam visa waiver program.	Second largest market for CNMI tourism (25%).	Minimal and slightly positive impact if granted visa waiver, as is likely. Minimal impact for visitors 55 years and older. New screening requirements to be implemented for U.S. Visa Waiver Program may pose some additional obstacles.
China	No visitor entry permit waiver; visitor entry permit required.	No visa waiver; visitor visa required.	Comprises about 10% of the current market, but has been growing. The CNMI is on China’s approved destination list.	<p>If China is not included in the CNMI-Guam visa waiver program, the U.S. visa application process will likely add time, cost, and uncertainty for tourists from China.</p> <ul style="list-style-type: none"> • Currently, the CNMI targets a few Chinese cities. For tourists from cities with U.S. embassies or consulates, visa application requires little travel time, but the wait time for in-person interviews can be over 30 days. • The visa fee (\$131) is a significant portion (16% to 19%) of the cost of packaged tours from China. • Visitor visa refusal rate is 24.5%.

⁸⁴ According to Guam Visitor Bureau statistics, Guam had 7,728 visitors from China in 2007, of which 1,504 were from mainland China, and 6,224 were from Hong Kong.

	Current CNMI status	Current U.S. status	Importance of market to CNMI tourism	Likely impact from legislation
Russia	No visitor entry permit waiver; visitor entry permit required.	No visa waiver; visitor visa required.	Comprises 1 percent of the CNMI tourist arrivals, and considered potentially lucrative market because Russian tourists stay longer and spend more.	<p>If Russia is not included in the CNMI-Guam visa waiver program, the U.S. visa application process will likely add time and uncertainty for tourists from Russia.</p> <ul style="list-style-type: none"> • Some Russian tourists may need to travel long distances to U.S. embassies or consulates. • The visa fee (\$131) may be insignificant portion of the Russian tourists' expenditure in the CNMI. According to CNMI tourism sector representatives, Russian tourists usually stay longer and spend more than tourists from Japan, South Korea, or China. • Visa refusal rate is 15.3%.

Source: GAO analysis of P.L. 110-229, U.S. and CNMI immigration laws and procedures, Marianas Visitors Authority (MVA) data, and U.S. Department of State data.

Note: Other countries and regions not in the CNMI's waiver program or in the U.S. Visa Waiver Program but included in the Guam visa waiver program are Indonesia, Malaysia, Nauru, Papua New Guinea, Solomon Islands, Taiwan, Vanuatu, and Western Samoa. Tourists from these regions may have increased access to the CNMI under the recent legislation if they are included in the joint CNMI-Guam visa waiver program. The CNMI government said in its comments on a draft of this report that the addition of these countries was unlikely to make a significant contribution to CNMI tourism. The CNMI government also said that it believed the addition of Indonesia and Malaysia constituted potential increased security risks to the CNMI.

Effect on CNMI of Sharing Joint Visa Waiver Program with Guam Is Unclear

The CNMI may lose some competitive advantage to Guam for countries that are not currently on the Guam visa waiver list, such as China and Russia, given that the current absence of U.S. visitor visa requirements for the CNMI makes it easier for tourists from these countries to visit the CNMI than to visit Guam. However, the CNMI also may benefit from the joint visa waiver program with Guam.⁸⁵ For example, the joint program will facilitate travel between Guam and the CNMI, and bundled tours of both islands may appeal to some tourists.

⁸⁵ The United States and China signed the U.S.-People's Republic of China Tourism Agreement in December 2007. The agreement facilitates Chinese group leisure travel to the United States. Chinese regulations restrict companies from organizing and marketing package tours for leisure purposes to countries that do not have agreements in place, often referred to as Approved Destination Status agreements. The U.S.-China agreement fulfills this purpose without changing existing laws or policies of the United States, including the issuance of visas.

Recent Legislation's Impact on CNMI Foreign Investment Depends, in Part, on Federal Decisions, but Lack of Data Hinders Assessment of Likely Impact

The impact of the recent legislation on CNMI foreign investment will depend, in part, on DHS decisions regarding foreign investor entry permits. However, lack of data, such as data on overall foreign investment in the CNMI, makes it difficult to assess the likely impact of these decisions and may hamper DHS's ability to make informed decisions. July 2008 data show that long-term business entry permits accounted for 90 percent of all active and valid long-term business and perpetual foreign investor entry permits. As a result, DHS's decision whether to extend the grandfathered treaty investor status to these permit holders will determine the numbers and types of investors likely to be affected. Moreover, any impact on foreign investment in the CNMI will likely affect the labor market and tourism sector, and any impact on the labor market and tourism sector may also affect foreign investment.

DHS Decisions Will Affect Foreign Investors' Access to the CNMI

In implementing the legislation, DHS will make two key decisions that will affect foreign investors' access to the CNMI. (See table 6.) First, DHS will determine which current CNMI foreign investors will receive the grandfathered CNMI-only U.S. treaty investor status during the transition period. In particular, DHS will determine whether the grandfathered status applies only to investors holding the CNMI perpetual foreign investor entry permit or also to investors holding the CNMI long-term business entry permit.⁸⁶ Second, DHS will determine the validity period of the grandfathered treaty investor status and decide whether to extend it past the initial transition period. Although the status can be awarded only during the transition period, the recent legislation imposes no limit on the grandfathered status' length of validity. If and when the grandfathered status expires, and for new CNMI foreign investors, DHS will adjudicate applications under the regular treaty investor status and under the other

⁸⁶ The recent legislation authorizes DHS to provide CNMI-only nonimmigrant E-2 treaty investor status to foreign investors admitted to the CNMI in long-term investor status under CNMI immigration laws before the start of the transition program. These "grandfathered" foreign investors attaining CNMI-only nonimmigrant status during the transition period will not have to meet the federal treaty requirements for E-2 nonimmigrant foreign investor status. To be grandfathered, the investor must have continuously maintained residence in the CNMI under long-term investor status, must be otherwise admissible, and must maintain the investment that formed the basis for such long-term investor status. Because the retiree foreign investor entry permit does not require investment in a CNMI business, we assume that investors holding this permit will not be grandfathered.

immigrant or nonimmigrant categories generally available under U.S. immigration law.⁸⁷

Table 6: Key Federal Implementation Decisions Related to CNMI Foreign Investors

Key federal implementation decisions	Legislative requirements and authorizations
Secretary of Homeland Security	
<ul style="list-style-type: none"> Determine which current CNMI foreign investors will be “grandfathered” as U.S. E-2 treaty investors when the transition period begins. 	<ul style="list-style-type: none"> May provide grandfathered status to those who were admitted to the CNMI in long-term investor status under CNMI immigration laws before the transition program start date, who maintain the investment(s) that formed the basis for such status, and who meet other requirements.
<ul style="list-style-type: none"> Decide the validity period for the grandfathered treaty investor status. 	

Source: GAO analysis of P.L. 110-229, Consolidated Natural Resources Act of 2008, May 8, 2008.

Lack of Key Data on Foreign Investment in the CNMI Hinders Assessment of Legislation’s Likely Impact and May Hamper Agency Decisions

A lack of key data makes it difficult to assess the likely impact of the recent legislation’s implementation on foreign investment in the CNMI and may limit DHS’s ability to make informed implementation decisions. Because the legislation may not affect all foreign investment in the CNMI, estimating the legislation’s impact requires data showing (1) current overall levels of foreign investment, (2) the amount of investment associated with each type of CNMI foreign investor entry permit, and (3) the extent to which investors’ decisions are affected by access to entry permits.⁸⁸ However, these data are currently unavailable.

- Overall foreign investment.** Neither the CNMI government nor the federal government has information on the overall level of foreign investment in the CNMI. As a result, baseline information needed to assess

⁸⁷ These categories include U.S. immigrant investor (EB-5) status. CNMI foreign investors pursuing immigrant investor status will face higher investment requirements than under CNMI law but will gain an option to apply for U.S. permanent immigration status that is not currently available under CNMI law. The opportunity to obtain permanent status may help attract investors; however, the more stringent investment requirements will make it more difficult to obtain immigrant investor status. We previously found that a small fraction of the available immigrant investor visas had been granted annually. See GAO, *Immigrant Investors: Small Number of Participants Attributed to Pending Regulations and Other Factors*, GAO-05-256 (Washington, D.C.: Apr. 1, 2005). See GAO-08-466 for more information about the legislation’s requirements related to foreign investment in the CNMI.

⁸⁸ In this report, all references to CNMI foreign investor permits refer to entry permits.

the likely impact of key agency decisions on foreign investment is lacking.⁸⁹

- **Investment associated with foreign investor entry permits.** The CNMI government lacks readily accessible and compiled data on the sizes and types of permit holders' investments, which DHS needs to determine the relative importance of each type of entry permit and the likely impact of possible implementation decisions.⁹⁰
- **Impact of access to entry permits.** Data showing the extent to which foreign investors' decisions are currently affected by their access to particular entry permits are not available. Although access to the CNMI through foreign investor entry permits may be a key factor for some investors, others may choose to invest regardless of their ability to obtain an entry permit. For example, some foreign investors may enter the CNMI under its permit waiver program or obtain regular-term business entry permits.⁹¹ In addition, foreign investors may invest without entering the CNMI.

⁸⁹ While the U.S. Department of Commerce's Bureau of Economic Analysis collects information on foreign direct investments in states and other territories, data for the CNMI are combined with data for other territories such as Guam, American Samoa, and the Virgin Islands. In addition, although the 2002 Economic Census of the Northern Mariana Islands includes information on CNMI businesses by owner citizenship status, we are not able to use the data in this report because some establishments did not report citizenship status, resulting in incomplete data.

⁹⁰ The minimum investment amounts required by CNMI law include \$250,000 by an individual in a single investment or \$100,000 per person in an aggregate investment exceeding \$2 million for perpetual foreign investors, \$150,000 in a public organization or at least \$250,000 in a private investment for long-term business permits, and \$100,000 (or \$75,000 on the islands of Tinian or Rota) for retiree investors.

⁹¹ CNMI's regular-term business entry permit, which has no investment requirement, allows visits of up to 90 days within a 12-month period.

Available Data Suggest That DHS's Application of Grandfathered Status Will Partly Determine Extent of Legislation's Impact on Foreign Investment

DHS's decision about the foreign investor entry permit holders to be grandfathered will partly determine the extent of the legislation's impact on foreign investment in the CNMI. According to available data, if DHS restricts the grandfathering of foreign investors to perpetual foreign investor entry permit holders, a small number of investors will qualify for grandfathering under the new legislation.⁹² However, if DHS extends the grandfathering provision to long-term business entry permit holders, many more investors will qualify.

According to data from the CNMI Department of Commerce provided in the CNMI government's comments on a draft of this report, long-term business entry permits accounted for 90 percent (506 of 562) of all long-term business and perpetual foreign investor entry permits active and valid in July 2008. The data show that 94 percent (448 of 478) of the businesses associated with these permits were for long-term business entry permits.⁹³ In addition 56 perpetual foreign investor entry permits, associated with 30 businesses, were active and valid in July 2008.

According to the CNMI government, approximately 18 percent of these long-term business and perpetual foreign investor permit holders were from countries that are not listed as a treaty nation with the United States. Depending upon the decisions of DHS, unless these permit holders are grandfathered under the legislation they would not qualify to obtain a nonimmigrant treaty investor visa.

Legislation's Impact on CNMI Foreign Investment Could Affect Labor Market and Tourism

Any impact that the legislation's implementation has on foreign investment may also affect the labor market and tourism. For example, if DHS's decision about the grandfathering of foreign investor entry permits leads to a reduction in foreign investment, causing businesses to close, demand

⁹² We requested from the CNMI government, but did not receive, information on foreign investor entry permits from the LIIDS database. This information would have included the current numbers of foreign investors holding each type of entry permit and would have allowed us to compare numbers of entry permit holders with CNMI Department of Commerce data. Without LIIDS data on foreign investors, we were unable to verify whether the holders of foreign investor entry permits issued were currently present in the CNMI. However, in its comments on a draft of this report, the CNMI government provided the number of active and valid long-term business and perpetual foreign investor entry permits as of July 8, 2008, based on the CNMI Department of Commerce's manual review of its files.

⁹³ According to the CNMI government, more than one permit holder can be associated with a single business venture.

for foreign workers could fall. Also, available services could diminish, lessening the CNMI's attractiveness to tourists.

Likewise, any impact on the labor market or tourism sector will likely affect investment, including foreign investment, in the CNMI. For example, if DHS and DOL decisions about the CNMI-only work permit decrease employers' access to foreign workers, investors may have less incentive to open or operate businesses in the CNMI. In addition, some foreign investors may be reluctant to commit to long-term business plans when future access to foreign workers is uncertain. Similarly, if excluding any countries from the CNMI-Guam visa waiver program causes tourism from those countries to drop, reduced demand for tourism-related products and services in the CNMI could lessen investors' incentive to operate businesses that provide such products and services.

Moreover, any reduction in access to foreign workers may negatively affect tourism and vice versa. For example, reduced access to foreign workers to perform tourism-related tasks, such as hotel housekeeping, could negatively affect tourism if CNMI residents were unwilling to take such jobs, according to CNMI tourism sector representatives.⁹⁴ Likewise, reductions in tourism could cause businesses to close, reducing demand for foreign workers.

Conclusions

The recent legislation applying U.S. immigration law to the CNMI provides federal agencies some flexibility in preserving the CNMI's access to foreign workers, tourists, and foreign investors during the transition to the federal system. However, while the legislation states that it intends to minimize potential adverse economic and fiscal effects on the CNMI and to maximize its potential for future economic growth, the actual impact of the legislation on the CNMI's labor market, tourism, and foreign investment will depend on decisions made by federal agencies in implementing the legislation. For example, federal decisions about how many foreign workers to admit under the CNMI-only work permit program and whether and when to extend the program will be important in determining the extent of the legislation's impact on the CNMI labor market and economy. In addition, the impact of the legislation on any one

⁹⁴ For example, 2005 HIES data show that 75 percent of CNMI hotel workers are foreign workers. Additionally, based on the LIIDS data, workers in the hotel industry fill positions such as cooks, waiters and waitresses, and cleaners.

of the sectors—labor market, tourism, and foreign investment—depends, in part, on changes in the other sectors. For example, changes in access to foreign workers could affect the viability of the tourism sector, which in turn could affect foreign investment.

Given the serious challenges already facing the CNMI economy, it is critical that federal agencies implement the legislation in ways that minimize potential adverse effects to the CNMI economy and maximize the CNMI's potential for economic and business growth, following the legislation's stated intent. Because the interaction of key federal decisions involving different departments will have a significant impact on the CNMI economy, coordination of these decisions is critical and necessitates an established interagency process, which currently does not exist. In addition, developing strategies for obtaining critical data that are currently unavailable on the CNMI labor market and foreign investment is essential to federal agencies' ability to make appropriate and effective decisions in implementing the legislation and fulfilling its goals.

Recommendations for Executive Action

Because of the importance of key implementation decisions by different federal agencies and the interaction of those decisions, we recommend that the Secretary of Homeland Security lead other relevant federal agencies, including the Departments of the Interior, Labor, and State, in identifying the interagency process that will be used to collaborate with one another—and consult with the CNMI government, as required—to jointly implement the legislation.

Because current data gaps limit federal agencies' ability to make key implementation decisions to best meet the goals of the legislation, we recommend that the Secretary of Homeland Security and the Secretary of Labor take the following two actions:

- develop a strategy for obtaining critical data on the CNMI labor market that are not currently available on an ongoing basis, such as data on the wages, occupations, and employment status of CNMI residents and foreign workers; and
- develop a strategy for obtaining critical data on CNMI foreign investment, such as overall levels of foreign investment and the investment amounts associated with various types of foreign investor entry permits.

Agency Comments and Our Evaluation

We provided a draft of this report to officials in DHS, DOI, and DOL and in the CNMI government for review and comment. We received written comments on the draft report from DHS and DOI and from the CNMI government, which are reprinted in appendixes X, XI, and XII, respectively. We also received technical comments from DHS and DOI and from the CNMI government. We incorporated their comments as appropriate. DOL had no comments. In addition, we provided a draft to the Department of State for technical review, and State had no comments. DHS agreed with our findings and recommendations, and DOI generally agreed with our findings. The CNMI government raised concerns or issues about some aspects of our report methodology and analysis.

DHS agreed with our findings and recommendations in its written comments. DHS agreed with the intent of our recommendation on interagency collaboration subject to the authority of the Secretary of the Interior regarding the Interagency Group on Insular Areas pursuant to Executive Order 13299 of May 8, 2003. While the Interagency Group on Insular Areas is one coordinating process available, we believe that DHS should lead other relevant agencies in identifying the most effective and sustainable process possible for coordinating implementation decisions. DHS provided new information noting that department officials, in collaboration with DOI officials, already have taken steps toward meeting the recommendation's intent by sending an interagency delegation to the CNMI to consult with government officials and the private sector on implementing the law and addressing the related economic impact. DHS also agreed with the intent of our recommendation on developing strategies for obtaining critical data on the CNMI labor market and foreign investment and said that it planned to collaborate with DOL on these matters.

DOI generally agreed with our findings in its written comments, saying that the report presents a realistic picture of the uncertainties faced by both the federal and CNMI governments and provides a good summary of the mandates of the law. DOI noted that it had already begun discussions with DHS, DOL, and the Departments of Justice and State to assist with development of the CNMI's transition program. In addition, it noted that coordination among federal agencies must also consider the duties and responsibilities of the CNMI's local government agencies. DOI identified two technical areas of the report in which it believed clarification was necessary. First, it questioned the report's finding that the CNMI's exemptions from H visa caps under the legislation would not apply past the end of the transition period in 2014 and said it had concluded that the transition period end does not apply to the cap exemptions. The

department said it would request that DHS coordinate with other federal agencies and obtain a final legal determination. Our interpretation of the law in this report is consistent with our March 2008 report⁹⁵ and consistent with the interpretation of the law by officials of DHS, the agency responsible for implementing and administering the provisions of the transition period under the legislation. In addition, we note that the subsequent report of the Senate Committee on Energy and Natural Resources on H.R. 3079 states that the Committee intends that the H exemptions for the CNMI and Guam be extended along with any extension of the 5-year transition period.⁹⁶ However, we are constrained in our analysis to the language in the bill as is, unless amended. Second, DOI commented that our current report should note that the law mandates that the CNMI produce and provide required information to DHS and DOL. We revised the report to indicate that the legislation requires the CNMI government to provide the Secretary of Homeland Security all immigration records or other information that the Secretary deems necessary to assist its implementation; however, the relevant provision does not specifically mention DOL.

The CNMI government raised several concerns or issues about aspects of our report methodology and analysis, which we have summarized in four areas. First, the CNMI government commented that the GDP simulation methodology used in the report is inadequate. It also contended that the report's assessment of future demand for foreign workers in the CNMI is faulty and ignores recent evidence of economic recovery. We disagree. We believe our methodology is a sound approach for analyzing and illustrating the potential impact of federal implementation decisions on the CNMI economy. We explained our GDP simulation methodology in appendix VI of the draft report. We further explain our methodological choices, assumptions, and limitations in our response to the CNMI government's letter (see app. XII). However, in response to the CNMI government's comments, we clarified the report to further describe our methodology and analysis. We also incorporated updated data provided by the CNMI government in the report as appropriate. Second, the CNMI government stated that this report should not be published in its present form because its discussion of possible consequences to the CNMI economy could itself harm the CNMI. We believe it is essential to report the key decisions facing federal agencies and to illustrate a range of potential impacts those

⁹⁵ [GAO-08-466](#).

⁹⁶ S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008).

decisions could have on the CNMI economy. Fully informed and coordinated federal agencies will be best capable of making decisions that minimize any potential adverse consequences for the CNMI economy. Third, the CNMI government inaccurately stated that the report predicts a substantial decline in the CNMI economy as a result of the legislation, misstating our message that the impact of the legislation on the CNMI economy will depend on various federal decisions. Our report's GDP simulations illustrate a range of possible outcomes of federal decisions regarding the CNMI-only work permit program, ranging from minimal to substantial impact on the economy. The actual extent of the legislation's impact on the CNMI economy will depend on the key federal decisions related to foreign workers, tourists, and foreign investors identified in our report, as well as other factors in the economy. In addition, our report clearly states that the GDP simulations should not be considered predictive of future GDP. Fourth, the CNMI government provided alternative data to that in the draft report related to foreign investor entry permits, and we have incorporated the new data in the report. Appendix XII provides our more detailed evaluation of the CNMI government's letter.

We are sending copies of this report to interested congressional committees. We also will provide copies of this report to the U.S. Secretaries of Homeland Security, the Interior, Labor, and State, and to the Governor of the CNMI. We will make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staffs have questions about this report, please contact me at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix XIII.



David Gootnick
Director, International Affairs and Trade



Tom McCool,
Director, Center for Economics, Applied Research and Methods

Appendix I: Objectives, Scope, and Methodology

This report examines the factors that will affect the impact of recent legislation applying U.S. immigration law to the Commonwealth of the Northern Mariana Islands (CNMI) on the CNMI economy, in particular the CNMI's (1) labor market, including foreign workers; (2) tourism sector; and (3) foreign investment.

In preparing this report, we relied on our March 2008 review¹ of relevant immigration and labor laws of the CNMI, current U.S. immigration law, and the recent legislation.² For that report and the current report, to examine U.S. immigration law, we reviewed the U.S. Immigration and Nationality Act (INA) and related regulations.³ To examine the relationship between the CNMI and the United States, we reviewed the CNMI-U.S. Covenant⁴ and the law applying U.S. minimum wage to the CNMI.⁵ We did not review the extent to which CNMI or U.S. laws were properly enforced or implemented. We also reviewed the recent legislation, including H.R. 3079, passed by the House of Representatives, and S. 2739, passed by the House and Senate and signed into law as P.L. 110-229. In addition, we reviewed the House Committee on Natural Resources Report for H.R. 3079⁶ and the Senate Committee on Energy and Natural Resources Report for H.R. 3079⁷. We interviewed officials from the U.S. Departments of Homeland Security (DHS), the Interior (DOI), and Labor (DOL). We also reviewed analyses of the legislation and related studies by GAO, the Congressional Budget Office, and the Congressional Research Service.

¹ GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period*, [GAO-08-466](#) (Washington, D.C.: Mar. 28, 2008).

² Consolidated Natural Resources Act of 2008, Pub. L. No. 110-229, Title VII, 122 Stat. 754, 853 (May 8, 2008).

³ 8 U.S.C. §1101 et. seq.

⁴ Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. No. 94-241, § 1, 90 Stat. 263 (Mar. 24, 1976) and 48 U.S.C. § 1801).

⁵ U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. No. 110-28, §8103, 121 Stat. 188 (May 25, 2007)).

⁶ H.R. Rep. 110-469, Amending the Joint Resolution Approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands, and for Other Purposes (Dec. 4, 2007).

⁷ S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008).

We conducted a site visit in the CNMI in September 2007 and interviewed officials in the CNMI Office of the Governor, CNMI Department of Immigration, CNMI Department of Labor, Marianas Visitors Authority (MVA), CNMI Department of Commerce, CNMI Department of Finance, CNMI Workforce Investment Agency, CNMI Public School System, and other CNMI agencies. We conducted additional interviews with CNMI officials in Washington, D.C. We also interviewed representatives of the CNMI private sector and foreign workers.

Additionally, to describe the CNMI's political and economic conditions, we consulted data from U.S. government sources, such as the Department of Commerce and the Census Bureau.

Labor market. For information on the current numbers and wages of foreign workers, we mainly relied on data from the Labor and Immigration Identification and Documentation System (LIIDS)⁸ on foreign workers with 706K permits, provided by the CNMI government. We used the LIIDS data to determine the number of foreign workers directly affected by the minimum wage increases. However, we did not assess the overall impact of the minimum wage increases on the CNMI economy, including the impact on the living standards in the CNMI, as our scope was limited to the possible effects of the minimum wage increases on the demand for foreign workers. When possible, we determined that average values from this data set were consistent with other sources, such as the 2005 CNMI Household, Income, and Expenditures Survey (HIES).⁹ However, although we used the most recent data available from the LIIDS system, from December 31, 2007, the CNMI government informed us that some of the data may not be current owing to administrative backlogs; therefore, these data do not reflect the extent to which current wages comply with recent changes in the minimum wage laws in particular cases. In addition, we did not receive some data requested from the CNMI government, including data from LIIDS on permit holders apart from 706K foreign workers, such as workers with temporary work authorization (706P) and holders of the

⁸ LIIDS is an administrative data system used to enforce CNMI labor laws that contains information on the individuals that have entered the CNMI for employment and other purposes.

⁹ HIES was conducted by the Central Statistics Division of the CNMI Department of Commerce, with funding from DOI's Office of Insular Affairs and assistance from consultants including a former U.S. Census Bureau employee, to provide a demographic profile of the CNMI. The scope of the survey was the three most populated islands in the CNMI—Saipan, Tinian, and Rota.

CNMI government employee entry permit (706B). As a result, our analysis covers 706K foreign workers, which represent the large majority of CNMI foreign workers according to data on entries to the CNMI contained in the Border Management System (BMS).¹⁰ For other information on the foreign worker population, and for comparison with CNMI residents and other workers, we mainly relied on the most recent household survey conducted in CNMI, the 2005 CNMI HIES. We identified foreign workers in the HIES survey by those who identified their status as “not a U.S. citizen, temporary resident.” However, in addition to foreign workers, survey respondents who identified themselves as temporary non-U.S. citizens may include other groups, such as holders of CNMI foreign investor permits.¹¹ To determine the reliability of the survey data, we obtained written responses to questions regarding the survey methods. To compare wages earned by U.S. citizens and noncitizens in the CNMI, we used tax return data provided by the CNMI Department of Finance. Because a limitation of this data source was that we could not distinguish between noncitizens who were permanent and temporary residents, we did not use it to obtain information about temporary residents. In general, we determined that available data on CNMI foreign workers were adequate and sufficiently reliable for the purposes of our review.

To demonstrate the joint effects of decisions by DHS and DOL regarding the CNMI-only permits, we used illustrative functions to determine the number of permits available in any given year. For DHS decisions regarding reductions in the CNMI-only permits available, we varied the rates of reduction required to reach zero in 5 years, as required by the legislation.¹² For DOL decisions regarding whether and when to extend the

¹⁰ The BMS database contains information on persons’ entries to and exits from the CNMI for the purpose of supporting border security. Data are collected primarily through automated passport readers.

¹¹ The 2005 HIES survey data includes 24,925 respondents who defined their status as temporary, non-U.S. citizens. Although the HIES includes non-706K permit holders, the HIES figure was broadly consistent with the 19,823 706K permit holders shown in the LIIDS data because the number of foreign workers has fallen since 2005.

¹² The foreign worker permit functions were defined as $FWF_t = FWF_0 - (t+1)^{b*} FWF_0 / (\text{months})^b$, where t is the number of periods since the beginning of the reduction (beginning with zero), FWF_0 is the number of CNMI-only permits at the beginning of the period, and months is the number of months in the period until permits should be equal to zero. In the case of the first period (May 31, 2009, to December 31, 2014), there were 67 months; in the case of the other periods, there were 60 months (5 years). Using this function, higher values of b cause the decline to be larger at the end of the period. When b is equal to 1, the function is linear. The “last month” function had an exponential decline of .1 percent per month, with the remaining decline occurring in the last month of the period.

CNMI-only permit program for up to 5 years at a time, we modeled illustrative extensions at 2 years, 4.5 years, and never. Based on the intersection of DHS and DOL decisions, the date at which the permits would have to be zero could change, resulting in a new rate of reductions in permits available. This analysis assumed that the number of permits would not increase, and it did not incorporate the possible effect of an increase of fees on the number of permits sought by employers.

To examine the possible range of effects from a reduction in foreign workers, we calculated the effect on GDP under a range of assumptions (see app. VI). Specifically, we varied the assumptions regarding the ability of CNMI resident workers to substitute for foreign workers and the effect of a reduction in labor on total production.

Tourism. To assess the importance of each tourist market and the trends in tourist arrivals, we analyzed visitor arrival data from 1997 through 2007 from the MVA. MVA data are generated from scanned customs forms and do not identify visitors by CNMI entry permit type (including the 703A tourist entry permit). We determined that MVA data were sufficiently reliable for our purposes. We did not receive sufficient BMS data from the CNMI government on visitors to allow us to analyze the size of each tourist market and related trends. We interviewed MVA representatives, who explained to us the process they use to collect the data. We also compared the aggregate visitor numbers to the ones from BMS, and the two are generally consistent. MVA also provided us with information on the cost of tour packages from Japan, Korea, and the People's Republic of China. In addition, we reviewed visa interview wait times reported by the U.S. Department of State. We previously found that these data are not sufficiently reliable to determine the number of posts with 30 or more days of wait time. However, we report these data to illustrate the ranges of possible wait times.

Foreign investment. We analyzed foreign investor entry permit data from the CNMI Department of Commerce. The department provided data tables on foreign investor and business entry permits issued, based on administrative information maintained by department staff. Although the data were limited to entry permits issued, did not give any information on the value of investment other than category of permit issued, and did not reflect whether entry permit holders were present in the CNMI, we determined that they were sufficiently reliable for the purposes of our review. We did not receive some data requested from the CNMI government, including data from LIIDS on foreign investors. This information would have included the current numbers of foreign investors

holding each type of entry permit and would have allowed us to compare numbers of entry permit holders with CNMI Department of Commerce data. Without LIIDS data on foreign investors, we were unable to verify whether the holders of foreign investor entry permits issued were present in the CNMI, nor did we know the total number of holders of perpetual foreign investor permits. However, in its comments on a draft of this report, the CNMI government said that our analysis of data on permits issued conflicted with CNMI Department of Commerce data. The CNMI government provided the number of active and valid long-term business and perpetual foreign investor entry permits, as well as the numbers of businesses associated with these permits, as of July 8, 2008, based on the CNMI Department of Commerce's manual review of its files. These data were not previously provided to us. The new data do not include information on issued entry permits and do not include complete information on country of origin and other characteristics. The information provided on the numbers of long-term business and perpetual foreign investor entry permit holders is generally consistent with the data on permits issued; therefore, we have replaced the information in the draft report with the new data provided. In addition, some data on CNMI foreign investment, including overall levels of foreign investment, are not collected by either the CNMI or the federal government.

In general, to establish the reliability of the data that we used for reporting trends and statistics for the CNMI labor market, tourism, and foreign investment, we systematically obtained information about the way in which data were collected and tabulated. When possible, we checked for consistency across data sources. While the data provided by the CNMI government had some limitations, and we did not receive all data requested, we determined that the available data were adequate and sufficiently reliable for the purposes of our review.

The scope of our study does not include foreign workers whose documentation is not current or valid or those working in any underground economy. In addition, we did not review federal agencies' expected costs or operational needs in implementing the legislation.

We conducted this performance audit from June 2007 to August 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: U.S. Nonimmigrant Classes of Admission

Foreign nationals seeking to enter the United States temporarily may apply for entry under the following classes of admission:

Class	Description
Transit aliens	
C-1	Aliens in continuous and immediate transit through the United States
C-2	Aliens in transit to the United Nations Headquarters District
C-3	Foreign government officials, attendants, servants, and personal employees, and spouses and children in transit
Temporary visitors for business	
B-1	Temporary visitors for business
GB	Visa Waiver Program—temporary visitors for business to Guam
WB	Visa Waiver Program—temporary visitors for business
Class	Description
Temporary visitors for business	
B1	Temporary visitors for business
GB	Visa Waiver Program—temporary visitors for business to Guam
WB	Visa Waiver Program—temporary visitors for business
Temporary visitors for pleasure	
B2	Temporary visitors for pleasure
GT	Visa Waiver Program—temporary visitors for pleasure to Guam
WT	Visa Waiver Program—temporary visitors for pleasure
Temporary workers and trainees	
H-1B	Temporary workers with “specialty occupation”
H-1B1	Chile and Singapore Free Trade Agreement Aliens
H-1C	Nurses under the Nursing Relief for Disadvantaged Areas Act of 1999
H-2A	Seasonal agricultural workers
H-2B	Seasonal nonagricultural workers
H-2R	Returning H-2B workers
H-3	Trainees
H-4	Spouses and children of H-1, H-2, or H-3 visa holders
O-1	Temporary workers with extraordinary ability or achievement in the sciences, arts, education, business, or athletics
O-2	Temporary workers accompanying and assisting O-1 visa holders
O-3	Spouses and children of O-1 and O-2 visa holders
P-1	Temporary workers—internationally recognized athletes or entertainers for a specific competition or performance

Appendix II: U.S. Nonimmigrant Classes of Admission

Class	Description
P-2	Temporary workers—artists or entertainers under reciprocal exchange programs with a similar organization of a foreign state
P-3	Temporary workers—artists or entertainers under culturally unique programs
P-4	Spouses and children of P-1, P-2, or P-3 visa holders
Q-1	Temporary workers in international cultural exchange programs
R-1	Temporary workers in religious occupations
R-2	Spouses and children of R-1 visa holders
TN	North American Free Trade Agreement (NAFTA) professional workers
TD	Spouses and children of TN visa holders
Treaty traders and investors	
E-1	Treaty traders and spouses and children
E-2	Treaty investors and spouses and children
E-3	Australian Free Trade Agreement principals and spouses and children
Intracompany transferees	
L-1	Intracompany transferees
L-2	Spouses and children of L-1 visa holders
Representatives of foreign information media	
I-1	Representatives of foreign information media and spouses and children
Students	
F-1	Students—academic institutions
F-2	Spouses and children of F-1 visa holders
F-3	Canadian or Mexican national commuter students—academic institutions
M-1	Students—vocational/nonacademic institutions
M-2	Spouses and children of M-1 visa holders
M-3	Canadian or Mexican national commuter students—vocational/nonacademic institutions
Exchange visitors	
J-1	Exchange visitors
J-2	Spouses and children of J-1 visa holders
Other categories	
A-1	Ambassadors, public ministers, career diplomatic or consular officers, and spouses and children
A-2	Other foreign government officials or employees and spouses and children
A-3	Attendants, servants, or personal employees of A-1 and A-2 visa holders and spouses and children
BE	Bering Strait Agreement aliens
FSM	Federated States of Micronesia nationals
G-1	Principal resident representatives of recognized foreign member governments to international organizations, staff, and spouses and children

Appendix II: U.S. Nonimmigrant Classes of Admission

Class	Description
G-2	Temporary representatives of recognized foreign member governments to international organizations and spouses and children
G-3	Representatives of unrecognized or nonmember foreign governments to international organizations and spouses and children
G-4	Officers or employees of unrecognized international organizations and spouses and children
G-5	Attendants, servants, or personal employees of G-1, G-2, G-3, or G-4 visa holders and spouses and children
K-1	Alien fiancés(ees) of U.S. citizens
K-2	Children of K-1 visa holders
K-3	Alien spouses of U.S. citizens
K-4	Children of K-3 visa holders
MIS	Republic of the Marshall Islands nationals
N-1 to N-7	North Atlantic Treaty Organization (NATO) aliens, spouses, and children
N-8	Parents of international organization special immigrants
N-9	Children of N-8 visa holders or international organization special immigrants
PAL	Republic of Palau nationals
Q-2	Irish Peace Process Cultural and Training Program aliens
Q-3	Spouses and children of Q-2 visa holders
T-1 to T-5	Victims of a severe form of trafficking and spouses, children, parents, and siblings
U-1 to U-4	Aliens suffering physical or mental abuse as victims of criminal activity and spouses, children, and parents
V-1 to V-3	Spouses and children of a lawful permanent resident who has been waiting 3 years or more for immigrant visas and dependents

Source: U.S. Department of Homeland Security.

Note: Also see GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period*, [GAO-08-466](#) (Washington, D.C.: Mar. 28, 2008).

Appendix III: Information on the CNMI Economy

The CNMI Economy

During the 1990s the economy of the CNMI relied largely on the garment and tourist sectors for most of its employment, exports, and production. The CNMI's unique trading relationship with the United States during this time period, its appeal as a tourist destination, and its proximity to tourists and inexpensive foreign labor from Asia helped the CNMI build a prosperous economy based on its garment and tourist sectors. Specifically, as long as certain conditions were met, garments manufactured in the CNMI could be sold to buyers in the United States without incurring import tariffs, and there were no quotas on imports of garments to the United States from the CNMI. In addition, these garments could bear labels identifying them as having been made in the United States. These features gave garment manufacturers in the CNMI greater access to the U.S. market and, therefore, an advantage over garment manufacturers from neighboring countries. In addition, the CNMI's local authority over immigration and the minimum wage, as well as other factors, meant that CNMI industry had access to a large supply of inexpensive foreign labor.

Fueled by a rapidly growing tourism and garment industry, the CNMI had one of the fastest growing economies in the world since 1978 and had an employment growth rate of 12.7 percent annually between 1980 and 1995, which was eight times that of the U.S growth rate over that period. The number of visitors to the CNMI rose from 100,000 in 1980 to almost 700,000 in 1995. Both the garment and tourist industries contributed directly to the economy by generating employment and bringing revenue from outside the CNMI via exports. In 1995, these two industries accounted for about 80 percent of all employment. In addition, a 1999 study found that garment manufacturing and tourism accounted for about 85 percent of CNMI's total economic activity and 96 percent of its exports.¹ In 1999, the garment industry directly employed about 16,000 workers, including 13,500 foreign workers and 2,500 local residents. The tourist industry directly employed about 9,600 workers in 1995, including 6,900 foreign workers and 2,700 local residents.

However, several recent developments in international trade have caused the CNMI's garment industry to decline dramatically. In January 2005, in accordance with World Trade Organization agreements, the United States

¹ Northern Marianas College, Business Development Center, *An Economic Study for the Commonwealth of the Northern Mariana Islands*, with funding provided by the U.S. Department of the Interior, Office of Insular Affairs (Saipan, Commonwealth of the Northern Mariana Islands, October, 1999).

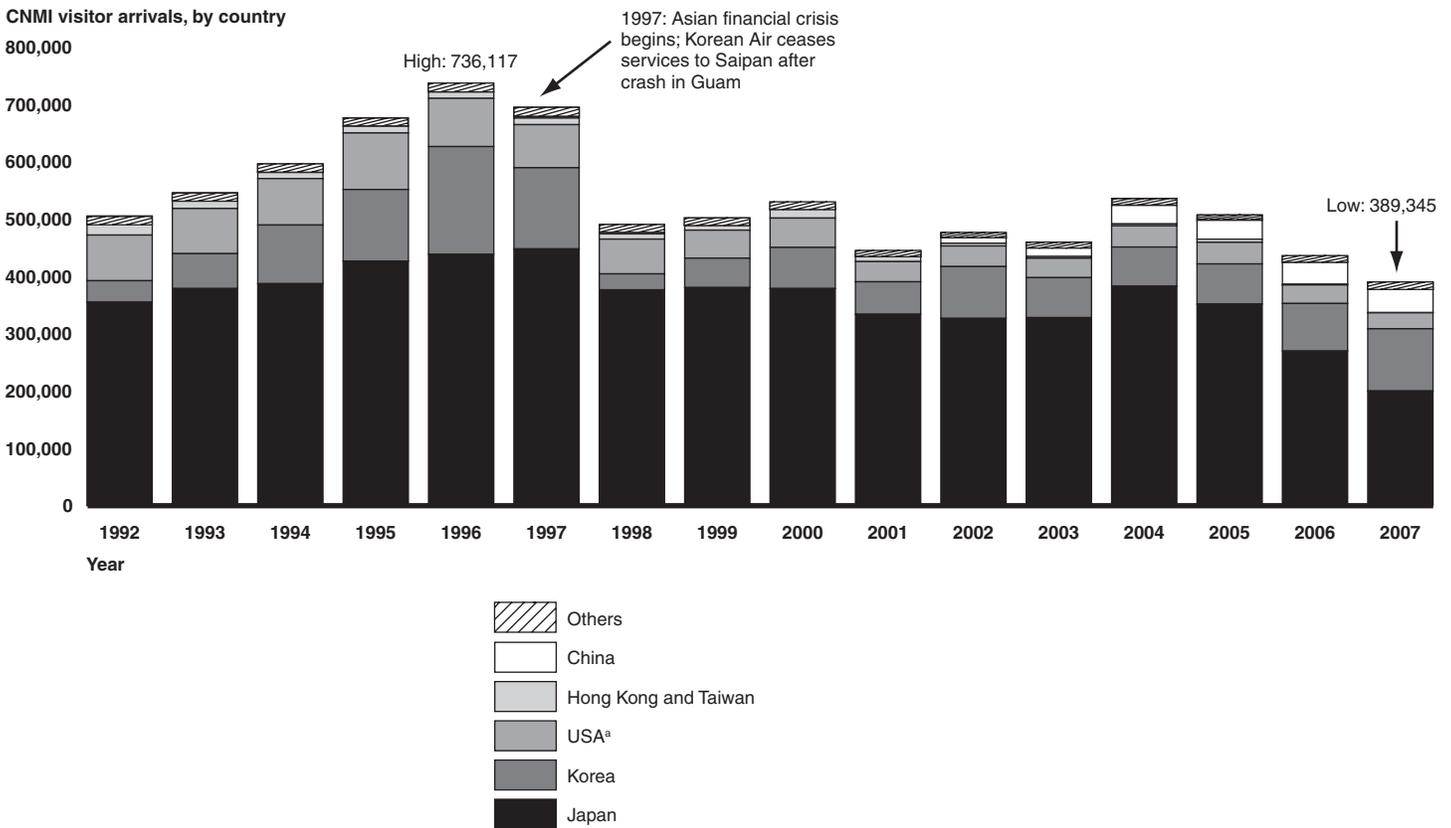
eliminated quotas on textile and apparel imports from other textile-producing countries, leaving CNMI's apparel industry to operate under stiffer competition, especially from low-wage countries such as China. With its trade advantage lessened, the CNMI's garment industry has shrunk. The value of CNMI textile exports to the United States decreased from \$1.1 billion in 1998 to \$317 million in 2007. As a result, the number of employees working in the garment industry has fallen from 21,000 garment workers in 2001 to 14,000 in 2006. According to CNMI government officials, the number of garment workers has fallen to 1,751 as of July 2008. In addition, there were 34 licensed CNMI apparel manufacturers in 1999; however, as of July 2008, only 6 firms remained in operation.

In addition to the garment industry, the CNMI economy depends heavily on the tourism industry, which has also been negatively affected in recent years by various external events. For example, due to the CNMI's proximity to Asia, Asian economic trends have a direct impact on the CNMI's economy. For example, tourism in the CNMI experienced a sharp decline in the late 1990s due to the Asian financial crisis and due to the cancellation of Korean Air service to the CNMI following an airplane crash on Guam in August 1997 (see fig. 11). In addition, the tourism industry in the CNMI faltered again with the September 11, 2001, terrorist attacks on the United States. In 2003, according to CNMI officials, tourism slowed in reaction to the SARS epidemic, which originated in Asia, and the war in Iraq. Tourism in the CNMI is also subject to changes in airline practices. For example, Japan Airlines withdrew its direct flights between Tokyo and Saipan in October 2005, raising concerns because roughly 30 percent of all tourists and 40 percent of Japanese tourists arrive in the CNMI on Japan Airlines' flights, according to CNMI and DOI officials. A mitigating factor is Northwest Airlines' new daily nonstop flights between Osaka and Saipan, which are expected to replace about 40 percent of the seats lost from Japan Airlines' action. In addition, according to press reports, Northwest Airlines recently announced that it will double its direct flights between Saipan and Tokyo starting in July 2008, which is expected to bring an additional 60,000 Japanese tourists to the CNMI. Furthermore, the CNMI government noted in its comments on a draft of this report that Asiana Airlines has also recently increased service capacity to the CNMI.

Total visitor arrivals to the CNMI dropped from a peak of 736,117 in 1996 to 389,345 in 2007, a decline of nearly 47 percent (see fig. 11). The number of visitors from Japan—which accounts for the highest percentage of visitors—decreased 23 percent from 2005 to 2006 and 26 percent from 2006 to 2007. At the same time, the CNMI has experienced an influx of Chinese tourists in recent years, with the potential to re-energize the

industry. The Chinese share of the CNMI's visitors increased significantly from 0.4 percent in 1997 to 10 percent in 2007. CNMI officials are optimistic that the number of Chinese visitors will continue to increase in the future, especially on the island of Tinian, which already has gambling and hotel facilities owned and operated by Chinese interests from Hong Kong.

Figure 11: Reported CNMI Visitor Arrivals by Country, 1996 through 2007



Source: GAO analysis of Marianas Visitors Authority (MVA) data.

*USA includes Guam.

Note: Effective October 2006, arrivals from Hong Kong are included with China.

According to business groups, the CNMI retains certain advantages in attracting foreign investment compared with nearby competitors, as well as the United States. The CNMI's relationship with the United States provides the CNMI with political stability and the protections afforded to businesses under the U.S. federal court system. In addition, the CNMI's tax

structure has enabled the CNMI to maintain low individual and corporate income tax rates. For example, residents of the CNMI pay no federal income tax on income derived from sources in the CNMI.² In addition, corporations organized in the CNMI are generally treated as foreign corporations for U.S. tax purposes and do not pay federal tax on income earned in the CNMI, but they are generally subject to federal tax on any income earned in the United States.³ Finally, the tropical climate and natural beauty of the CNMI, as well as its close proximity to major Asian markets, also create unique investment opportunities, particularly for tourism. However, the CNMI government has identified addressing infrastructure challenges as key to attracting new foreign investment. These challenges include unstable electrical, water, and sewage services, which make it more difficult to attract new investors.

At the same time that the CNMI economy has declined owing to the collapse of the garment industry and reductions in tourism, the CNMI has made efforts to attract future foreign investors. The CNMI has announced successful efforts to attract large foreign investors such as Kumho-Asiana—investing in the LaoLao Golf Resort Development project—and the Marianas Resort Development Co.—developing a Tinian casino and hotel. According to press reports, in early May 2008, Kumho-Asiana executives and local CNMI officials held the groundbreaking ceremony for the resort. The \$68.8 million LaoLao Golf Resort Development project is the largest construction project on the island since 1997. In addition, the CNMI government also has considered policy changes to help attract new investors. For example, the government has explored revising strict land lease laws that limit private leases to 55 years and ownership restrictions that limit ownership of land to persons of Northern Marianas descent. The CNMI also has tried to attract retirees from Asia.

² According to the American Jobs Creation Act of 2004, in order to qualify, residents must be present in the CNMI for at least 183 days per year and must not have a “tax home” or “closer connection” to the United States or any other territory. See Pub. L. No. 108-357, §908, 118 Stat. 1418, 1655 (Oct. 22, 2004).

³ Until 2006, a possessions tax credit enabled corporations organized in the United States that met certain conditions to reduce the federal tax payable on income earned in and repatriated from the CNMI and other insular areas. The credit had been designed to encourage U.S.-based corporations to invest in these areas.

The CNMI's Fiscal Condition

The overall fiscal condition of the CNMI's government steadily weakened from fiscal year 2001 through fiscal year 2007. Fees collected by the government from the garment industry have declined from \$36 million in 2001 to \$13 million in 2007. As a result of this deterioration of the garment industry and other downward economic trends, as shown in table 7, the CNMI's governmental funds balance has declined, dropping from a reported positive \$17.2 million at the end of fiscal year 2001 to a negative \$153.2 million at the end of fiscal year 2007.

Table 7: The CNMI's Fiscal Condition

Data	Fiscal years ending September 30,						
	2001	2002	2003	2004	2005	2006	2007
Federal contributions	\$49,348,134	\$71,964,627	\$57,560,034	\$63,006,595	\$64,346,950	\$78,144,241	\$61,332,039
Total revenues	277,057,785	287,615,613	282,972,842	298,761,486	308,530,728	297,327,592	244,308,264
Total expenditures	258,177,431	314,985,333	303,986,379	352,488,419	343,370,293	320,797,417	289,074,529
Revenues less expenditures [surplus/(deficit)]	18,880,354	(27,369,720)	(21,013,537)	(53,726,933)	(34,839,565)	(23,469,825)	(44,766,265)
Total net other financing ^a	6,511,003	3,510,667	0	39,493,350	7,625	0	1,895,805
Governmental funds beginning year balance ^b	3,540,878	19,609,305 ^c	(4,249,748)	(35,011,807) ^c	(49,245,390)	(84,077,330)	(110,296,274)
Governmental funds end of year balance	17,219,852	(4,249,748)	(25,263,285)	(49,245,390)	(84,077,330)	(107,547,155)	(153,166,734)

Source: GAO analysis of single audit reports for fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007.

Notes: Financial data in table 7 reflect the CNMI's financial statements for its governmental activities, which include most of the CNMI's basic services. The financial data in table 7 do not include the CNMI's fiduciary funds, because those funds cannot be used to finance CNMI operations. The CNMI's audited financial statements received qualified opinions from its external auditors and therefore, these amounts are subject to the limitations cited by the auditors in their opinions and to the material internal control weaknesses identified. In addition, the CNMI government had unfunded pension liabilities of \$547,199,484 as of October 1, 2005.

^aOther financing" includes transfers in and out of other funds.

^bGovernmental funds finance most of the basic services provided by the government.

^cThe end-of-year fund balance for the prior fiscal year may not agree with the beginning-of-year fund balance for the succeeding fiscal year owing to amounts being restated in subsequent financial statements. We could not readily identify explanations for these restatements because comparative information was not always available or disclosures were not made in subsequent financial statements.

Appendix IV: U.S. and CNMI Fees for Foreign Workers, Tourists, and Foreign Investors

	U.S. fee	CNMI fee	Transition period fee
Foreign workers (fees paid by employers)	<ul style="list-style-type: none"> Specialty workers (H-1B): \$320 to \$2,320 for petition (range includes supplemental fees of \$750 or \$1,500 and fraud prevention fee of \$500 required for some petitions); associated visa typically valid for up to 3 years Agricultural (H-2A): \$320 for petition and \$100 plus \$10 for each additional worker for DOL labor certification (to a maximum of \$1,000); associated visa typically valid for 1 year Nonagricultural (H-2B): \$470 for petition (\$320 plus \$150 fraud prevention fee); associated visa valid for up to 1 year 	<ul style="list-style-type: none"> Foreign worker (706K): \$250 per year 	<ul style="list-style-type: none"> \$150 fee paid annually by employers under CNMI-only permit to fund vocational education in the CNMI Other fees for CNMI-only permit to be determined by federal regulations U.S. fees that apply to existing federal programs
Tourists (fees paid by tourists)	<ul style="list-style-type: none"> Temporary visitor for business (B-1), pleasure (B-2), or combined (B1-B2): generally, \$131 visa application fee and visa issuance fees varying by country; valid for periods ranging from 1 to 10 years Visa waiver: no fee or small fee for arrivals at land borders; valid for up to 90 days 	<ul style="list-style-type: none"> Tourist (703A): no fee or \$100 if submitted 7 days or less from intended arrival; valid for up to 30 days Entry permit waiver: no fee; valid for up to 90 days 	<ul style="list-style-type: none"> U.S. fees that apply to existing federal visas
Foreign investors (fees paid by investors)	<ul style="list-style-type: none"> Immigrant investor status: fee of \$1,435 for initial petition, plus \$131 visa application fee and visa issuance fees varying by country Treaty investor (E-2): \$320 for up to 2 years plus \$131 visa application fee and visa issuance fees varying by country 	<ul style="list-style-type: none"> Foreign investor (706G): one-time permit fee ranging from \$500 to \$2,500, depending on investment level, and one-time certificate fee of \$10,000 Long-term business (706N): \$1,000; valid for 2 years 	<ul style="list-style-type: none"> CNMI-only E-2 visa requirements to be determined by federal regulations U.S. fees that apply to existing federal petitions and visas

Source: GAO analysis of P.L. 110-229 and information from the U.S. Department of Homeland Security, U.S. Department of Labor, U.S. Department of State, and the CNMI government.

Note: Also see GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period*, [GAO-08-466](#) (Washington, D.C.: Mar. 28, 2008). This table includes only petition fees and some visa or permit application fees, as of January 2008. U.S. fees include DHS petition fees, Department of State visa fees, and DOL fees for labor certification. Some fees may be waived. The table omits renewal and status adjustment fees; biometric fees; fees for expedited service; user fees, such as immigration inspection fees included in the cost of airline tickets; and legal costs. H-1B petition renewal fees are generally the same as the initial petition fees; however, the \$500 fraud prevention and detection fee is required only the first time a petitioner files for a worker. The table omits other costs that may be associated with hiring a foreign worker, such as costs related to worker health examinations and care, transportation, and benefits. It also omits nongovernment fees that may be associated with tourist visas, such as those charged by travel agencies. In addition to the employer fees listed above, foreign workers may be responsible for U.S. visa fees. U.S. visa fees generally include a \$131 application fee and may include an issuance fee, depending on the country. Foreign workers in the CNMI are responsible for an annual alien registration fee of \$25.

Appendix V: Applicability of Other Legislation Provisions to CNMI Foreign Workers

In addition to the CNMI-only work permits, the recent legislation contains other provisions that will affect foreign workers, including exemptions from H visa caps for nonimmigrant workers, the option to apply for nonimmigrant worker visas generally available under U.S. law, and the option to apply for employment-based permanent immigration status generally available under U.S. law.¹ However, these provisions will likely affect a relatively small number of CNMI foreign workers.

Background

U.S. immigration law includes several types of visas for nonimmigrant workers and their families and sets caps for two of these types of visas.² In particular, the H-1 category includes highly skilled workers coming to the United States temporarily to perform in specialty occupations.³ H-1B visa holders may be admitted for an initial period of 3 years that can be renewed for a total of 6 years, and they can work in employment of varied duration, depending on the terms of the visa. The H-2 category includes H-2A visas for foreign workers providing temporary or seasonal agricultural labor services, as well as H-2B visas for other temporary workers who can perform short-term service or labor in a job for which unemployed U.S. workers cannot be found. Both H-1B and H-2B visas are capped—only

¹ For additional information, see [GAO-08-466](#).

² As a general rule, nonimmigrants temporarily admitted for an employment-based purpose are authorized to work only in the authorized position; lawful permanent residents and other immigrants may work for any employer.

³ For purposes of the H-1B visa, “specialty occupation” is defined as one that requires a theoretical and practical application of a body of highly specialized knowledge and attainment of a bachelor’s or higher degree in that specific specialty as a minimum for entry into the United States (8 U.S.C. § 1184(i)). Beneficiaries can qualify to perform the specialty occupation by meeting one of the following criteria: (1) hold a U.S. baccalaureate or higher degree required by the specialty occupation from an accredited college or university; (2) hold a foreign degree determined to be equivalent to a U.S. baccalaureate or higher degree required by the specialty occupation from an accredited college or university; (3) hold an unrestricted state license, registration, or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or (4) have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a U.S. baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty. Unlike other nonimmigrant categories, H-1B and H-1C visa holders may lawfully seek to become a permanent resident of the United States at the end of the authorized nonimmigrant stay.

65,000 H-1B visa holders and 66,000 H-2B first-time visa holders may be issued visas in each fiscal year.⁴

Other nonimmigrant visas available for foreign workers include, among others, L visas for intracompany transfers; O visas for individuals of extraordinary ability or achievement; P visas for artists, athletes, and entertainers; and R visas for religious workers. In addition to nonimmigrant visas, the INA contains permanent employer-sponsored immigrant visas for individuals seeking to reside permanently in the United States.

Exemptions from H Nonimmigrant Worker Visa Caps

Although access to foreign workers in the CNMI will be available through exemptions from the usual caps on H nonimmigrant worker visas during the initial transition period, in addition to the CNMI-only work permit program, few CNMI foreign workers are likely to meet the requirements for these visas. During the initial transition period, DHS will review and adjudicate applications for H nonimmigrant work visas, uncapped under the legislation.⁵ The exemption from the caps is an advantage to the CNMI, as the demand for the H-1B and H-2B visas has exceeded the capped supply in recent years. For example, in 2008 DHS received approximately 160,000 petitions for the 65,000 H-1B visas available. After the initial transition period ends in 2014, the H caps will apply.⁶

⁴ There are exceptions to the H-1B cap for aliens employed by certain nonprofit institutions and for up to 20,000 aliens who have earned a master's degree or higher from a U.S. institution of higher education. U.S. law provides an exemption from the H-2B visa caps for returning workers through fiscal year 2007, stating that "an alien who has already been counted toward the numerical limitation during fiscal year 2004, 2005, or 2006 shall not again be counted toward such limitation during fiscal year 2007. Such an alien shall be considered a returning worker" (8 USC 1184(g)(9)(A)). However, this exemption expired at the end of fiscal year 2007. As a result, fewer H-2B visas are now available for first-time workers.

⁵ Currently, the Guam government issues labor certification of applications for H-2 nonimmigrant visas in Guam. It is unclear whether the CNMI government would have similar responsibilities under the legislation.

⁶ GAO found that the legislation provides the CNMI and Guam with exemptions from the H visa caps only through the end of the initial transition period in 2014. See [GAO-08-466](#). The subsequent report of the Senate Committee on Energy and Natural Resources on H.R. 3079 states that the Committee intends that the H exemptions for the CNMI and Guam be extended along with any extension of the 5-year transition period. See S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008).

However, few foreign workers currently in the CNMI are likely to qualify for the uncapped H nonimmigrant visas due to education and skill requirements and to restrictions regarding the type of jobs to which H visas apply. First, few foreign workers in the CNMI are likely to qualify for the H-1B visa. H-1B visas are designed to give U.S. employers the opportunity to hire foreign professionals if a U.S. citizen or resident is not available. Based on a 2005 household survey of CNMI residents, about 20 percent of foreign workers have a college degree or higher, which is generally required for the H-1B.⁷ However, the H-1B visa may be applicable to workers who hold positions that are difficult to fill with CNMI residents. For example, some workers holding professional positions, such as accountants, may meet the H-1B requirement.⁸

Nor are current CNMI foreign workers likely to qualify for H-2B visas despite the exemptions on these visa caps. H-2B visas are available for temporary workers who can perform short-term service or labor in a job for which unemployed U.S. workers cannot be found.⁹ H-2B visa holders may be admitted for an initial period of 1 year. No nonimmigrant visa categories are currently available for workers performing continuous, rather than temporary, work who do not meet the high-skill requirements of the H-1B visas. However, based on the 2005 CNMI HIES survey, about 70 percent of noncitizens employed in the CNMI entered in 2002 or earlier, indicating that many were employed on a nontemporary basis.¹⁰

⁷ Approximately 60 percent of foreign workers answered this question on the survey. In addition, new businesses may be attracted to the CNMI and Guam because of possible access to workers under the uncapped H visas and may hire a different pool of workers. It is unknown whether DHS would make H visas available to such new businesses or only to existing businesses that are part of the current CNMI economy.

⁸ The December 2007 LIIDS data showed that 898 706K permits were issued to workers with the following listed occupations: accountants, architects, civil engineers, computer programmers, electrical engineers, nurses, and physical therapists. LIIDS data do not include information on the credentials, such as college degrees, or work experience of these workers. A DOI official said he thought that workers with these job titles would qualify for the H-1B visa. If all of these workers qualified for H-1B visas, they would represent about 5 percent of the approximately 20,000 706K foreign workers in the CNMI, according to December 2007 LIIDS data.

⁹ The H-2B category applies to residents of foreign countries who are coming to the United States temporarily to perform nonagricultural temporary labor or service if unemployed persons capable of performing such labor or service are unable to be found in the United States (8 U.S.C. § 1101(a)(15)(H)(ii)(B)).

¹⁰ This figure includes lawful permanent residents.

H-2A visas are not capped and would be available for foreign workers providing temporary or seasonal agricultural labor both during and after the initial transition period.¹¹ However, based on the most recent LIIDS estimate, there were only 555 foreign workers engaged in private farming, about 3 percent of total foreign workers with 706K visas.

In addition, the exemptions from the H visa caps no longer apply after the initial transition period ending in 2014. Foreign workers applying for H nonimmigrant status are then subject to the numerical limitations set out in federal law, and as noted above, demand for the H-1B and H-2B visas has exceeded the capped supply in recent years.

Moreover, current H visa fees range higher than the current CNMI fees for foreign workers, making them less desirable to employers. The current CNMI worker fee is \$250 per year; existing U.S. fees for H visa petitions range from \$107 to \$773 per year (also see app. IV).¹² The legislation neither requires nor prohibits DHS from establishing different fees for the uncapped CNMI and Guam H visas than for H visas in general, so it is not clear what the uncapped H visa fees will be. As with higher CNMI-only fees, increases in the cost of hiring foreign workers would translate into increased labor costs and reduced incentives for employers to use the H-visa program. For example, a fee difference of \$500 per year would be equivalent to a wage increase of approximately \$0.25 per hour. However, H visas may be more desirable to foreign workers because, unlike other nonimmigrant categories, H-1B and H-1C visa holders may seek to become

¹¹ H-2A employers must comply with the federal labor certification process, which determines whether the employment is agricultural in nature, whether it is open to U.S. workers and if qualified U.S. workers are available, the adverse impact of employment of a qualified alien, and whether employment conditions (e.g., housing) meet applicable requirements (8 C.F.R. § 214.2(h)(5)(ii)).

¹² For our analysis, we converted the U.S. H visa range of fees to an annual range. H-1B visas are typically valid for up to 3 years, and petition fees range from \$320 to \$2,320, depending on whether fraud prevention and other supplemental fees are required. H-1B visas may be renewed for an additional 3 years, and the petition renewal fees are generally the same as the initial petition fees; however, the \$500 fraud prevention and detection fee is required only the first time a petitioner files for a worker. H-2A visa fees are \$320, in addition to \$100 plus \$10 for each additional worker for labor certification by DOL. H-2B visa fees are \$470. We did not analyze the full cost of obtaining a foreign worker in either the United States or the CNMI. Costs other than petition and visa fees and bonds may include renewal and status adjustment fees; biometric fees; fees for expedited service; user fees, such as immigration inspection fees included in the cost of airline tickets; legal costs; worker health examinations and care; transportation; benefits; and other costs.

lawful permanent residents of the United States at the end of the authorized nonimmigrant stay.

Nonimmigrant Worker Visas Generally Available under U.S. Law

In addition to H nonimmigrant worker visas, all INA nonimmigrant categories would be available to qualified foreign workers attempting to enter the CNMI during and after the transition period and after any extensions of the CNMI-only permit program. Some workers can apply for L visas for intracompany transfers, but these visas are available only to managers and executives, workers with specialized skills, and their spouses and children. Also, L visa holders must have spent at least 1 continuous year abroad with a qualifying organization prior to entering the United States. Other nonimmigrant visas available for foreign workers are for specialized work— such as O visas for individuals of extraordinary ability or achievement; P visas for artists, athletes, and entertainers; and R visas for religious workers—and thus, are not likely to apply to substantial numbers of CNMI workers.

Employment-Based Permanent Immigration Status Generally Available under U.S. Law

When federal immigration law becomes applicable to the CNMI on the transition program effective date, CNMI employers will be able to petition to bring workers to the CNMI as employment-based permanent immigrants under the same procedures as other U.S. employers. Each fiscal year, about 140,000 employment-based immigrant visas are available for workers to enter the United States on a permanent basis. Up to 28.6 percent of these visas may be available for skilled nontemporary and nonseasonal workers, for professionals with baccalaureate degrees, and for qualified workers capable of performing unskilled nontemporary and nonseasonal labor for which qualified workers are not available in the United States. For the unskilled laborers, up to 10,000 visas may be issued each fiscal year to qualified immigrants after DOL certifies that qualified workers are not available in the United States. The limited number of visas available for nontemporary and nonseasonal workers suggests few CNMI workers will be able to obtain them.

Appendix VI: Construction of Gross Domestic Product Simulations

The effect on the CNMI economy of a reduction in the availability of needed foreign workers is uncertain. Generally, the size of the effect is expected to be based on the degree to which any reduction in overall needed labor causes production to decrease and on the effect of a reduction in foreign workers on the productivity of resident workers.

In order to illustrate a range of possible effects on production from a specific reduction of foreign workers, we generated simulations of production in the CNMI economy, measured as gross domestic product (GDP), under a range of assumptions regarding the effect of a reduction of labor on production and the ability of the CNMI resident workforce to substitute for the foreign workers in production.¹ Because we were unable to obtain a recent estimate of the CNMI's GDP, the simulations were conducted using 2007 as a base year, with an index value of 100.²

As noted in the above report section on the labor market, existing trends within the CNMI may affect the demand for foreign workers within the coming years. Therefore, because these simulations did not control for such potential changes in the CNMI over the next 12 years, they should not be considered predictive of future GDP. Rather, they are an attempt to illustrate a range of effects of the reduction in needed foreign workers, leaving all other factors constant.

¹ See Office of Management and Budget Circular A-94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs," which suggests that any assumptions be tested by using sensitivity analysis.

² In 2005, the International Programs Center (IPC) of the U.S. Census Bureau, under contract to DOI, estimated that CNMI GDP was between \$753 million and \$977 million in 2002. See Marc Rubin and Selma Sawaya, *Final Trip Report on Benchmark Estimates of 2002 Gross Domestic Product in the Commonwealth of the Northern Mariana Islands*, a report prepared by the U.S. Bureau of the Census, 2005.

Model

Production Function

This analysis relies on the application of a combination of the commonly used Cobb-Douglas production and Constant Elasticity of Substitution functions to the CNMI economy.³

$$(1) \quad Y = AK^\alpha(\varepsilon FW^{-\rho} + (1-\varepsilon)RW^{-\rho})^{-(1-\alpha)/\rho}$$

where Y is output, K is capital, A is a constant, FW is the foreign workforce, and RW is the resident workforce.⁴ Using this function, total labor is not simply the sum of resident and foreign labor, but the weighted and exponential sum of $((\varepsilon FW^{-\rho} + (1-\varepsilon)RW^{-\rho})^{-1/\rho})$. Because this model raises the number of workers to a negative power, we could not use it to examine the case in which the number of foreign workers is equal to zero. The parameters that control both the substitutability and the factor shares of resident and foreign labor are ρ and ε . In addition, the elasticity of output with respect to “total labor” is given by $(1-\alpha)$.

In the particular case in which $\rho = -1$ and $\varepsilon = .5$, foreign and resident workers are perfect substitutes and can be exchanged on a one-to-one basis. In this case, the production function approaches the Cobb-Douglas function, although with a different constant:

$$(1a) \quad Y = A_1 K^\alpha L^{(1-\alpha)}$$

³ Functions that use the Constant Elasticity of Substitution function to model different types of labor are often used in the economic literature studying the effect of immigration. See George Borjas, “The Labor Demand Curve is Downward Sloping: Reexamining the impact of immigration on the labor market,” *The Quarterly Journal of Economics*, Vol. 118, No. 4 (November 2003); David Card “Immigrant Inflows, Native Outflows, and the Local Market Impacts of Higher Immigration,” *Journal of Labor Economics*, Vol. 19, No. 1 (January 2001); Barry Chiswick, Carmel U. Chiswick, and Paul W. Miller “Are Immigrants and Natives Perfect Substitutes in Production?,” *International Migration Review*, Vol. 19, No. 4 (Winter 1985); and George Borjas, Jeffrey Grogger, and Gordon Hanson, “Imperfect Substitution between Immigrants and Natives: a Reappraisal,” NBER working paper 13887 (March 2008).

⁴ For the purposes of this simulation, resident workers were defined as all workers who are not temporary, non-U.S. citizens, according to HIES definitions. These include U.S. citizens and permanent residents. The 2005 HIES survey categorizes as permanent residents approximately 80 percent of non-citizens in the CNMI from the Freely Associated States (FAS) who were born in the FAS or Asia.

where $L = (FW+RW)$. However, by increasing the ρ parameter and allowing the ε parameter to change we can decrease the one-to-one substitutability of foreign and resident workers.⁵

Method

To apply the equation (1), we created scenarios varying the elasticity of output with respect to total labor $(1-\alpha)$ and the substitution parameters ρ and δ . Specifically, we allowed both these parameters to change according to pre-determined probability distributions, which were generated through a review of economic literature and existing CNMI data. The rate of departure of foreign workers was chosen by assumption, to account for the various options of federal agencies. Then, with initial conditions of the foreign and resident workforce, we simulated the changes in the GDP of the CNMI based on the departures of foreign workers. We generated 10,000 random scenarios. The model was run to simulate scenarios through December 2021.

Initial Conditions

Any analysis of this type must specify the initial values from which the trajectory stems. Because an exact estimate of GDP was not available we chose an arbitrary GDP “base” of 100.

The initial foreign worker population was chosen to be 19,823 (based on the most recent LIIDS estimate from December 2007). Unfortunately, a similar estimate was not available for the resident worker population. However, based on the household survey done in 2005, resident employment was approximately 60 percent of the foreign worker population. If that ratio applied today, there would be approximately 11,500 employed residents, which we chose as the initial condition.

Rate of Exit of Foreign Workers from the CNMI

The number of CNMI foreign worker permits that will be available in the future is currently unknown and is dependent on many different decisions. The Secretary of Labor will have the ability to extend the CNMI-only work permit program indefinitely. The Secretary of Homeland Security will have the ability to restrict the number of permits.

⁵ The elasticity of substitution is equal to $1/(1+\rho)$. See Alpha Chiang, *Fundamental Methods of Mathematical Economics*, 3rd Edition (New York: McGraw Hill, 1984): 426.

Because of this uncertainty, we used three illustrative possible scenarios, beginning in June 2009, in order to present a range of possible reductions:

1. **Linear decline with renewal every 2 years.** Assumes that the rate of decline in the number of permits chosen by DHS is linear, and that the Secretary of Labor extends the CNMI-only permit program every 2 years.
2. **Accelerating decline with renewal every 2 years.** Assumes that the rate of decline in the number of permits chosen by DHS accelerates, and that the Secretary of Labor extends the CNMI-only permit program every 2 years.
3. **Last month with renewal every 2 years.** Assumes that the rate of decline in the number of permits is very slight, with a steep decline in the last month, and that the Secretary of Labor extends the CNMI-only permit program every 2 years.

Distribution of Elasticity of Output with Respect to Labor

The economics of growth literature includes varying values of elasticity of output with respect to labor. In an analysis of the growth rates of East Asian nations, Alwyn Young refers to the “standard” assumption of about two-thirds.⁶ In a recent paper by Louis Kuijs of the World Bank and Tao Wang of the International Monetary Fund, the authors use an elasticity of .5 in a model explaining China’s economic growth over the past 25 years.⁷ Robert Hall assumes an elasticity of .7 for the United States.⁸

Based on this range, we assumed that the elasticity could be anywhere from .5 to .75, with a peak of probability at .625, and the simulations assumed a triangular distribution over that range.

⁶ Alwyn Young, “The Tyranny of Numbers: Confronting the Statistical Realities of the East Asian Growth Experience,” *The Quarterly Journal of Economics*, Vol. 110, No. 3 (August 1995).

⁷ Louis Kuijs and Tao Wang, “China’s Pattern of Growth: Moving to Sustainability and Reducing Inequality,” *China and the World Economy*, Vol. 1, No. 14 (2006).

⁸ Robert Hall, “Macroeconomic Fluctuations and the Allocation of Time,” *The Journal of Labor Economics*, Vol. 15., No. 1, Part 2: Essays in Honor of Yoram Ben-Porath (January 1997).

Substitutability of Foreign and Resident Labor Forces

The greater the degree to which CNMI resident workers are substitutes for foreign workers in production, the less the effect of any restriction. While some simulations of the U. S. labor market assume perfect substitutability between immigrant and nonimmigrant labor,⁹ this is unlikely in the case of the CNMI. Given that the CNMI economy supports greater numbers of foreign workers than resident workers, the difference in the relative wages can be used to determine the elasticity of substitution. Foreign worker wages that are only slightly less than resident wages would indicate a high degree of substitutability in the CNMI market. However, in the CNMI, the average wages of foreign workers and resident workers are very different; data from the 2005 CNMI HIES—the most recent available—suggest that the average foreign worker had a wage of \$4.40 in 2004,¹⁰ while the average resident had a wage of \$8.60.¹¹ By itself, this would suggest substantial nonsubstitutability in production, with an elasticity of .72 at the 2005 levels of foreign and resident workers (and a ρ equal to .39).¹²

However, the substitutability of the foreign and resident workers may also be a product of regulation. For example, under recent CNMI labor law, firms were required to maintain staffs of 20 percent resident workers; this requirement was increased to 30 percent as of January 2008. Moreover, many jobs, such as some in government, are closed to foreign workers. Some of the regulations regarding the labor market may not have analogues in federal immigration law. This might suggest that under the recent legislation there will be more substitutability between foreign and resident labor than the current levels of wages and number of workers indicates.

We assumed that the foreign and resident labor force had some degree of substitutability but were not perfectly substitutable. Specifically, we allowed the substitution parameter, ρ , to take any value from .5 to -1 with

⁹ George Borjas, "The Economic Benefits of Immigration," *The Journal of Economic Perspectives*, Vol. 9, No. 2 (Spring 1995).

¹⁰ The survey asked about 2004 wages.

¹¹ This wage was calculated assuming 2080 hours were worked for both resident and foreign workers.

¹² It can be derived from formula (1) that under equilibrium, $\ln(\text{FW}/\text{RW}) = 1/(1+\rho) * \ln(\text{W}(\text{RW})/\text{W}(\text{FW}))$. This implies that the 2005 conditions (where the ratio of FW to RW was 1.61 to 1) were $1/(1+\rho) = .72$, therefore $\rho = .39$. See Alpha Chiang, *Fundamental Methods of Mathematical Economics*, 428.

equal probability,¹³ a uniform probability over that range. Similarly, the factor share, ε , was allowed to range from .35 to .65 with a uniform distribution.

¹³ This translates into an elasticity of substitution between foreign and resident workers of two-thirds to infinity.

Appendix VII: Dependents of Temporary Non-U.S. Citizens in the CNMI

In order to estimate the extent to which CNMI foreign workers support dependent children, including U.S. citizens, we analyzed data on temporary non-U.S. citizens¹ from the 2005 CNMI HIES, the latest year data is available.² HIES does not provide data on the individual citizenship of children according to the citizenship status of their parents, but it provides information on the citizenship status of all children in the CNMI, as well as the citizenship status of the heads of households in which CNMI children reside. According to the 2005 survey, the total population of the CNMI is about 66,000, with over 40 percent, about 28,000 people, living in households headed by a temporary non-U.S. citizen.³ Households headed by a temporary non-U.S. citizen on average have a total of 3.19 people living in the households, including 1.28 children per household, compared to an average of 1.97 children for all CNMI households (see table 8).

Table 8: Mean Number of Children in Household by Immigration Status of Head of Household, 2005

Citizenship status of head of household	Mean number of children in household	Number of children in household
U.S. citizen	2.35	10,797
Born in the CNMI	2.5	8,711
Naturalized U.S. citizen	1.99	913
Born in U.S. or U.S. territory	1.82	1,100
Other U.S. citizen	1.59	73
Non-U.S. citizen	1.55	8,485
Permanent non-U.S. citizen	2.13	3,757
Temporary non-U.S. citizen	1.28	4,728
Total	1.97	19,282

Source: GAO analysis of CNMI 2005 Household, Income, and Expenditures Survey (HIES).

There are 19,282 children under the age of 18 living in the CNMI, and 4,728

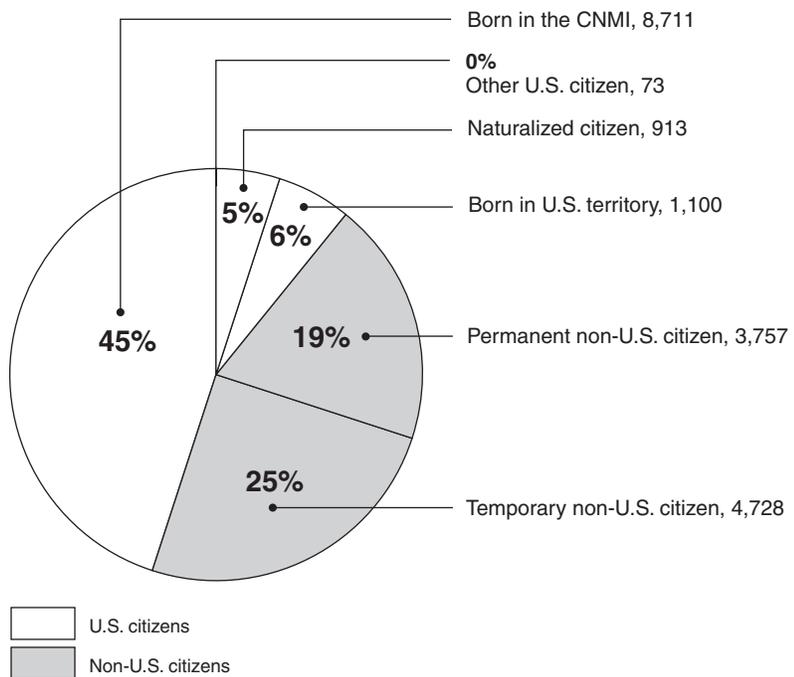
¹ The 2005 HIES data include respondents who identified their status as “not a U.S. citizen, temporary resident.” In addition to foreign workers, survey respondents who identified themselves as temporary non-U.S. citizens may include other groups, such as holders of CNMI foreign investor permits.

² We requested from the CNMI government but did not receive CNMI Labor and Immigration Identification and Documentation System (LIIDS) data on immediate relatives of CNMI entry permit holders.

³ These numbers include individuals in the CNMI who are living in group quarters.

of these children are living in a household headed by a temporary non-U.S. citizen. Thus, one quarter of all children in the CNMI under the age of 18 are living in a household headed by a temporary non-U.S. citizen (see fig. 12).

Figure 12: Percentage and Number of Children in Each CNMI Household by Immigration Status of Head of Household, 2005



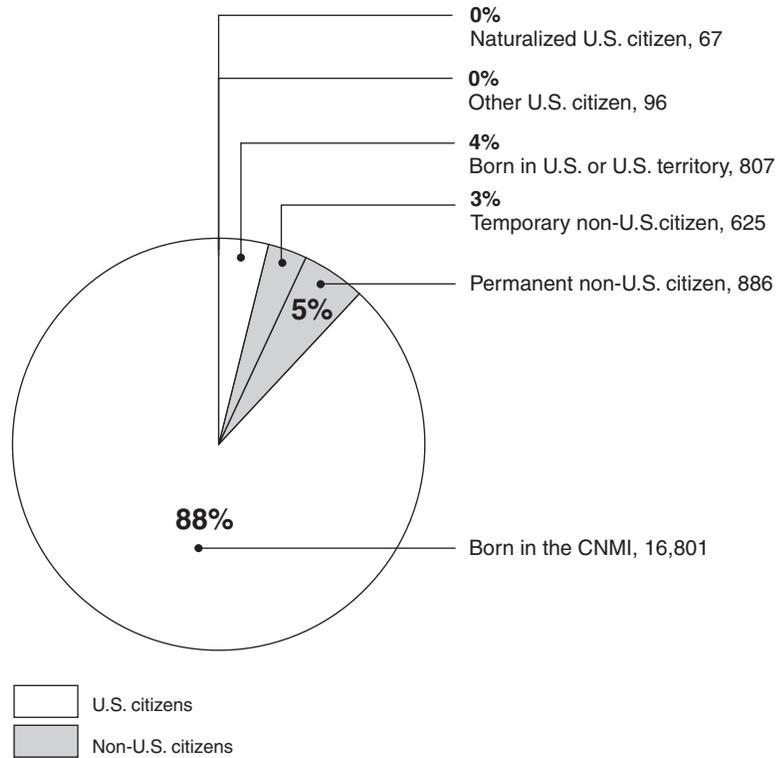
Source: GAO analysis of 2005 Household, Income, and Expenditures Survey (HIES) data.

In addition, 92 percent of children living in the CNMI are U.S. citizens (see fig. 13). Therefore, there are between 3,217 and 4,728 children who are U.S. citizens living in households headed by a temporary non-U.S. citizen,

or between 68 and 100 percent of all children living in households headed by a temporary non-U.S. citizen are themselves U.S. citizens.⁴

⁴ To calculate the lower bound of the number of U.S. citizen children living in households headed by a temporary non-U.S. citizen, we assume that all non-U.S. citizen children (includes permanent non-U.S. citizens and temporary non-U.S. citizens) live in households headed by a temporary non-U.S. citizen. The remaining number of children living in households headed by a temporary non-U.S. citizen must themselves be U.S. citizens. To calculate the upper bound of U.S. citizen children living in a household headed by a temporary non-U.S. citizen, we assume that all non-U.S. citizen children live in households headed by someone other than a temporary non-U.S. citizen. All of the remaining children in households headed by a temporary non-U.S. citizen must themselves be U.S. citizens.

Figure 13: Immigration Status of Children in the CNMI, 2005



Source: GAO analysis of 2005 Household, Income, and Expenditures Survey (HIES) data.

Appendix VIII: Country Participation in Current Waiver Programs in the United States, the CNMI, and Guam

	U.S. Visa Waiver Program ^a	CNMI entry permit waiver program ^b	Guam visa waiver program
Andorra	Yes	Yes	Yes
Australia	Yes	Yes	Yes
Austria	Yes	Yes	Yes
Belgium	Yes	Yes	Yes
Brunei	Yes	Yes	Yes
Denmark	Yes	Yes	Yes
Finland	Yes	Yes	Yes
France	Yes	Yes	Yes
Germany	Yes	Yes	Yes
Hong Kong ^c	No	No	Yes
Iceland	Yes	Yes	Yes
Indonesia ^c	No	No (limited for shipping)	Yes
Ireland	Yes	Yes	Yes
Italy	Yes	Yes	Yes
Japan	Yes	Yes	Yes
Liechtenstein	Yes	Yes	Yes
Luxembourg	Yes	Yes	Yes
Malaysia ^c	No	No (police clearance)	Yes
Monaco	Yes	Yes	Yes
Nauru ^c	No	No	Yes
Netherlands	Yes	Yes	Yes
New Zealand	Yes	Yes	Yes
Norway	Yes	Yes	Yes
Papua New Guinea ^c	No	No	Yes
Portugal	Yes	Yes	Yes
Republic of Korea ^c	No	No	Yes
San Marino	Yes	Yes	Yes
Singapore	Yes	Yes	Yes
Slovenia	Yes	Yes	Yes
Solomon Islands ^c	No	No	Yes
Spain	Yes	Yes	Yes
Sweden	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes
Taiwan ^c	No	No	Yes
United Kingdom	Yes	Yes	Yes

**Appendix VIII: Country Participation in
Current Waiver Programs in the United
States, the CNMI, and Guam**

	U.S. Visa Waiver Program^a	CNMI entry permit waiver program^b	Guam visa waiver program
Vanuatu ^c	No	No	Yes
Western Samoa ^c	No	No	Yes

Source: GAO analysis of U.S. and CNMI immigration laws.

Notes: Also see GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period*, [GAO-08-466](#) (Washington, D.C.: Mar. 28, 2008).

^aIn July 2006, we reported that DHS and the Department of State were consulting with 13 countries, including the Republic of Korea, seeking admission into the U.S. Visa Waiver Program. The other countries were Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Romania, and Slovakia. In August 2007, Congress passed legislation that provides DHS with the authority to admit countries with refusal rates for business and tourism visas between 3 and 10 percent under the Visa Waiver Program if the countries meet certain conditions and if DHS implements certain security measures. The Republic of Korea's refusal rate in fiscal year 2007 was 4.4 percent. See GAO, *Process for Admitting Additional Countries into the Visa Waiver Program*, [GAO-06-835R](#) (Washington, D.C.: July 28, 2006) and GAO, *Visa Waiver Program: Limitations with the Department of Homeland Security's Plan to Verify Departure of Foreign Nationals*, [GAO-08-458T](#) (Washington, D.C.: Feb. 28, 2008). While Canada is not included in the U.S. Visa Waiver Program, nationals of Canada may also, in most circumstances, qualify for visa-free travel to the United States, including Guam.

^bAn order of the CNMI Attorney General dated March 23, 2004, includes the Republic of Korea, Hong Kong, and Canada in the CNMI's permit waiver program, but CNMI officials said that this order was no longer in effect. The officials said that the CNMI currently waives permit requirements only for visitors from countries included in the U.S. Visa Waiver Program. They could not identify any document specifically revoking the 2004 order, and an official said the CNMI planned to issue clarification to the policy in the near future.

^cIndicates countries for which visa waiver participation for tourism or business differs among the United States, the CNMI, and Guam. Under U.S. visa waivers, visitors may enter for up to 90 days. Under CNMI entry permit waivers, the length of admission is also up to 90 days. Under Guam visa waivers, visitors may enter for up to 15 days, except that citizens from countries eligible for the U.S. Visa Waiver Program may enter for 90 days. This table does not include the Freely Associated States—the Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau—whose citizens are permitted to work in the CNMI and elsewhere in the United States under the Compacts of Free Association.

Appendix IX: CNMI Immigration and Labor Expenditures

In order to provide information relevant to federal agencies assuming responsibility for immigration functions in the CNMI, we requested information from the CNMI government on its own expenditures on immigration-related activities for fiscal year 2007. The CNMI government reported that its Division of Immigration in the Office of the Attorney General had total expenditures of \$2,379,529 for fiscal year 2007 (see table 9).

Table 9: CNMI Division of Immigration Expenditures for Fiscal Year 2007

Description	FY 2007 expense
Total Labor and Immigration Identification and Documentation System (LIIDS) expenditures	\$287,073
Personnel expenditures, LIIDS	226,430
All other expenditures, LIIDS	60,643
Total Immigration expenditures, Saipan	1,498,948
Personnel expenditures, Saipan	1,422,947
All other expenditures, Saipan	76,001
Total Immigration expenditures, Tinian	172,137
Personnel expenditures, Tinian	136,519
All other expenditures, Tinian	35,618
Total Immigration expenditures, Rota	190,339
Personnel expenditures, Rota	173,598
All other expenditures, Rota	16,741
Total Immigration expenditures, alien deportation	102,234
Personnel expenditures, alien deportation	14,017
All other expenditures, alien deportation	88,217
Total alien deportation—PL 11-66	115,417
Immigration services, uniforms	13,381
Total Division of Immigration expenditures	\$2,379,529

Source: CNMI Department of Finance.

The CNMI government also reported that the CNMI Department of Labor had expenditures of \$2,246,953 in fiscal year 2007 (see table 10).

Table 10: CNMI Department of Labor Expenditures for Fiscal Year 2007

Description	FY 2007 expense
Total Secretary of Labor expenditures	\$763,621
Personnel expenditures, Secretary of Labor	251,357
All other expenditures, Secretary of Labor	512,264
Total Labor expenditures, Saipan	338,164
Personnel expenditures, Saipan	334,209
All other expenditures, Saipan	3,955
Total Labor expenditures, Tinian	368,327
Personnel expenditures, Tinian	253,218
All other expenditures, Tinian	115,109
Total Labor expenditures, Rota	355,046
Personnel expenditures, Rota	291,270
All other expenditures, Rota	63,776
Total Administrative Hearing Office expenditures	105,359
Personnel expenditures, Administrative Hearing	104,410
All other expenditures, Administrative Hearing	949
Total Labor enforcement fund	316,436
Personnel expenditures, enforcement fund	312,562
All other expenditures, enforcement fund	3,874
Total Department of Labor expenditures	\$2,246,953

Source: CNMI Department of Finance.

Note: Some but not all CNMI Department of Labor expenditures were related to foreign workers. However, the CNMI government did not provide information about the extent to which the above expenditures were related to foreign workers.

In addition, CNMI officials provided us with the federal expenditures on CNMI Division of Immigration and CNMI Department of Labor activities related to immigration, which totaled \$412,519 for fiscal year 2007 (see table 11).

Appendix IX: CNMI Immigration and Labor Expenditures

Table 11: Federal Expenditures on CNMI Division of Immigration and CNMI Department of Labor Activities for Fiscal Year 2007

Description	FY 2007 expense
Labor and Immigration automation	\$14,831
CNMI Attorney General	58,232
Department of Labor, Administrative Hearing	20,825
Department of Labor, personnel training	3,000
Immigration and Alien Labor Reform, personnel	185,961
Immigration and Alien Labor Reform, hearing officer	85,562
Translation services	24,277
Enforcement training	19,831
Total Federal Expenditures	\$412,519

Source: CNMI Department of Finance.

Note: Some but not all of federal expenditures on CNMI Department of Labor activities were related to foreign workers. However, the CNMI government did not provide information about the extent to which the above Department of Labor expenditures were related to foreign workers.

Appendix X: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

US GAO

2008 JUL 16 AM 10: 55



Homeland
Security

July 15, 2008

Mr. David Gootnick
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Mr. Thomas McCool
Director, Center for Economics, Applied
Research and Methods
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Messrs. Gootnick and McCool:

RE: Draft Report GAO-08-791, Commonwealth of the Northern Mariana Islands:
Managing Economic Impact of Applying U.S. Immigration Law Requires
Coordinated Federal Decisions and Additional Data
(GAO Job Code 320514)

The Department of Homeland Security (DHS) appreciates the opportunity to review and comment on the draft report referenced above. The Government Accountability Office (GAO) recommends that the Secretary of Homeland Security lead other relevant federal agencies, including the Departments of the Interior, Labor, and State, in identifying the interagency process that will be used to collaborate with one another-- and consult with the Commonwealth of the Northern Mariana Islands (CNMI) government as required-- to jointly implement the legislation. GAO also recommends that the Secretary of Homeland Security and the Secretary of Labor (1) develop a strategy for obtaining critical data on the CNMI labor market that are not currently available on an ongoing basis, and (2) develop a strategy for obtaining critical data on CNMI foreign investment.

We agree with the intent of the first recommendation subject to the authority of the Secretary of the Interior regarding the Interagency Group on Insular Areas pursuant to the Executive Order 13299 of May 8, 2003. DHS officials in collaboration with officials from the Department of the Interior already have taken steps towards meeting the recommendation's intent by sending an inter-agency delegation to the CNMI to consult with government officials as well as the private sector on implementing the law and addressing the related accompanying economic impact. This delegation includes

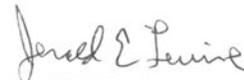
**Appendix X: Comments from the Department
of Homeland Security**

personnel from various DHS offices and components and the Department of the Interior. We have been working with the Department of the Interior's Office of Insular Affairs, which has primary general authority and expertise in matters involving territorial governments.

We also agree with the intent of the other two recommendations. Officials at DHS intend to collaborate with Department of Labor officials on the specific matters relating to their expertise as we seek to address the recommendations directed to both agencies. The Department is committed to continuing an inter-agency consultative process with CNMI authorities.

Technical comments have been provided under separate cover.

Sincerely,



Jerald E. Levine
Director
Departmental GAO/OIG Liaison Office

Appendix XI: Comments from the Department of the Interior and GAO's Evaluation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON

JUL 1 1 2008

Mr. David Gootnik
Director, International Affairs and Trade
United States Government Accountability Office
Washington, D.C. 20548

Dear Mr. Gootnik:

Thank you for the opportunity to review and comment on the Government Accountability Office Draft Report No. GAO-08-791 entitled, *COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, Managing Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data*. The Department of the Interior agrees that there are numerous challenges related to the transition to full applicability of U.S. immigration laws to the Commonwealth of the Northern Mariana Islands. In addition, with no history of Federal involvement in the development of the current CNMI immigration rules and regulations there is a great deal of uncertainty with regard to the potential impacts and how to quantify them.

The Department's Office of Insular Affairs has already begun discussions with the Federal Departments of Homeland Security, Labor, Justice, and State to assist with the development of the transition program as required in Title VII of Public Law 110-229, the Consolidated National Resources Act of 2008. At the forefront of the discussions is the awareness that forthcoming regulations and processes may greatly affect the CNMI's economy by impacting worker availability and CNMI tourism.

Coordination among Federal agencies must also consider the duties and responsibilities of the CNMI's local government agencies. For example, currently operating in the CNMI are several law enforcement agencies, both local and Federal, with an undefined jurisdictional role related to border control in the CNMI. Responsibilities such as enforcement, the imposition of fees and fines, and public education must be clearly defined by the various agencies.

The Department believes the Report presents a realistic picture of the uncertainties faced by both the Federal and CNMI governments and provides a good summary of the mandates of the Public Law. However, there are two areas of the Report in which the Department believes clarification is necessary.

1. The Report states throughout that the exemption from the numeric caps on H workers will not apply during any extensions of the transition period. Based on discussions with DHS officials, the Office of Insular Affairs concludes that the stated transition period end date of December 31, 2014, in Public Law 110-229, Section 702(a), the new Section 6(a)(2), does not apply to programs referenced as (b) and (d) in this section. Therefore, programs under the referenced (b) and (d), including programs related to H workers may be extended as authorized under the Public Law. The Department will request that the DHS coordinate with other Federal agencies and obtain a final legal determination.

See comment 1.

Mr. David Gootnik

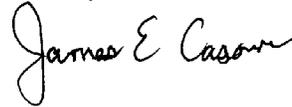
2

See comment 2.

2. The Report references the difficulty that Federal agencies face in obtaining data needed to make decisions such as labor and economic statistics. Although various Federal agencies assist the CNMI in gathering data, the Department believes it is important that the Report emphasize that the Public Law mandates the CNMI to produce and provide the required information to the DHS and the DOL.

Thank you again for the opportunity to comment on the Draft Report. If you have any questions concerning the response, please communicate with Nikolao Pula, Director of Insular Affairs, at (202) 208-4736.

Sincerely,



James E. Cason

The following are GAO's comments on DOI's letter dated July 11, 2008.

In addition to generally agreeing with our findings, DOI identified two technical areas of the report in which it believed clarification was necessary.

GAO Evaluation

1. DOI questioned the report's finding that the CNMI's exemptions from H visa caps under the legislation would not apply past the end of the transition period in 2014 and said it had concluded that the transition period end did not apply to the cap exemptions. The department said it would request that DHS coordinate with other federal agencies and obtain a final legal determination. Our interpretation of the law in this report is consistent with our March 2008 report.¹ DOI and DOL raised no concerns about our interpretation of this provision during agency interviews or in commenting on our March 2008 report. Moreover, our interpretation is consistent with the interpretation of the law by officials of DHS, the agency responsible for implementing and administering the provisions of the transition period under the legislation. As we state in our March 2008 report, we interpret the legislation as allowing for an extension of the CNMI-only work permit program beyond 2014 at the discretion of the Secretary of Labor, but not to allow for an extension beyond 2014 of other provisions of the transition program, including the exemptions from the numerical limitations on H visas. Subsection 6(a)(2) of H.R. 3079 establishes a transition period "beginning on the transition program effective date and ending on December 31, 2014, except as provided in subsections (b) and (d)." Subsection 6(b) authorizes aliens to enter the CNMI with H visas without counting against the numerical caps established by law for H visas but confers no specific authority for extending this exemption beyond 2014. Subsection 6(d) authorizes CNMI-only work permits to be issued to employers for nonimmigrant workers who are not otherwise admissible under federal law. Subsection 6(d)(5) allows the Secretary of Labor to ascertain the labor needs of the CNMI and "determine whether an extension of up to 5 years of the provisions of this subsection is necessary to ensure an adequate number of workers" are available in the CNMI. The "provisions of this subsection" refers only to the provisions of subsection 6(d), the authorization for the CNMI-only work permit, and not to other programs available during the transition period. As the exemption from the numerical limitation

¹ [GAO-08-466](#).

on H visas is contained in subsection 6(b), the exemption could not be extended beyond 2014 without further legislation. In addition, we note that the subsequent report of the Senate Committee on Energy and Natural Resources on H.R. 3079 states that the Committee intends that the H exemptions for the CNMI and Guam be extended along with any extension of the 5-year transition period.² However, we are constrained in our analysis to the language in the bill as is, unless amended.

2. DOI said it was important for the report to note that the law mandates that the CNMI produce and provide the required information to the Departments of Homeland Security and Labor. We have revised the report to clarify that the legislation requires the CNMI government to provide the Secretary of Homeland Security all immigration records or other information that the Secretary deems necessary to assist its implementation; however, the relevant provision does not specifically mention DOL.

² S. Rep. 110-324, Northern Mariana Islands Covenant Implementation Act (Apr. 10, 2008).

Appendix XII: Comments from the Commonwealth of the Northern Mariana Islands Government and GAO's Evaluation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

July 9, 2008

Timothy P. Villagomez
Lieutenant Governor

COMMENTS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS ON DRAFT GAO REPORT 08-791

"GAO Predicts 50% Decline in CNMI Economy as a Result of Federalization!" That will be the headline in the Commonwealth papers and elsewhere if this draft report is published in its present form. This confirmation by a prestigious federal agency of such a serious economic impact on the Commonwealth of the Northern Mariana Islands will have a devastating affect on our small islands, our businesses, our present and potential investors, our 30,000 United States citizens, and all of our residents. No such report regarding the United States economy, or any State or city economy, would be published without extensive peer review by professional economists and political clearance at the highest level because of the obvious human suffering and property loss that would result from its dissemination. The Commonwealth requests the Government Accountability Office to defer publication of this draft report because the adverse consequences associated with its distribution far outweigh any possible benefits to the U.S. Congress, the Commonwealth of the Northern Mariana Islands, or the American public.

In support of this request, the Commonwealth respectfully submits the following reasons:

1) Publication of the report before Congress enacted Public Law 110-229 as originally requested would have informed Congress of the proposed legislation's serious deficiencies and provided an opportunity for constructive amendments – an objective that no longer can be achieved.

2) The report's emphasis on the lack of relevant data and its identification of alternative courses to be considered by the implementing federal agencies without recommendation provides no useful information or guidance for agency personnel fully capable of understanding Public Law 110-229 with the assistance previously provided by GAO in its report (GAO-08-466) dated March 2008.

3) The report's assessment of economic impact on the Commonwealth economy will be accepted as accurate and widely publicized despite the obvious limitations of GAO's methodology and the assumptions used by the staff in applying it.

1

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 664-2200/2300 Facsimile: (670) 664-2211/2311

See comments 1 and 2.

See comment 3.

See below.

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

4) The report's assessment of future demand for foreign workers in the Commonwealth is faulty, ignores recent evidence of economic recovery, and fails to address the fundamental issue arising from the small United States citizen population in the Commonwealth.

5) The report reflects a basic misunderstanding of the CNMI workforce and contains outdated information and factual errors.

Discussion

1. Publication of the report before Congress enacted Public Law 110-229 as originally requested would have informed Congress of the proposed legislation's serious deficiencies and provided an opportunity for constructive amendments – an objective that no longer can be achieved.

Publication of this report by the Government Accountability Office before Congress acted on Public Law 110-229 would have been of substantial assistance to the Members of Congress and the Commonwealth of the Northern Mariana Islands. The six Members of Congress who requested this study by letter dated May 4, 2007, asked that additional information be provided by GAO “[a]s the Congress considers whether federal immigration and minimum wage laws should be extended to the CNMI” and requested that the agency “discuss how different applications of federal immigration authority could affect the local economy.” GAO’s written definition of the scope and methodology of the study confirms the objective of providing Congress with relevant information before any legislation would be enacted applying federal immigration authority in the Commonwealth. It stated that the purpose of the study is to provide information on “the current laws and procedures regarding non-citizens in CNMI and how the application of federal immigration authority would affect CNMI’s laws and procedures.” It committed the agency to provide “information related to the potential application of federal immigration authority.” The methods to be used in conducting the study were to include an analysis of “proposed legislation expanding federal immigration authority to CNMI.”¹

The Government Accountability Office has not produced the report requested by the Members of Congress or described in its own definition of the study’s scope and methodology. After consultations with the responsible Congressional staffers, the GAO study team decided (and so advised CNMI representatives) to redefine its assignment. Rather than trying to assist the Members in deciding whether the proposed legislation should be adopted, GAO decided that its mission would be limited to provide information to assist the responsible agencies in the law’s “implementation.” We are unaware of any public statement by the six signatories of the May 4 letter approving this critical redefinition of the GAO’s assignment.

Notwithstanding its many limitations, the GAO report persuasively documents the fundamental flaws in this legislation. The Report repeatedly emphasizes the absence of the necessary

¹ GAO, “CNMI Scope and Methodology” (one-page undated document, probably finalized in October or November 2007).

See comment 4.

See comment 4.

See comment 4.

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

See comments 2, 9, and
11.

economic data based on which the implementing federal agencies might fairly assess the impact of their decisions on the economy and people of the Commonwealth. The report illustrates the wide range of discretionary decisions entrusted by the Congress to the federal agencies in the absence of any detailed legislative criteria. Lastly, the report applies a seriously deficient methodology to examine the law's impact on the Commonwealth economy and concludes, even with the most favorable (and unrealistic) assumptions, that the law's implementation will likely result in a 50% decline in the economic output (or GDP) of the Commonwealth by 2021 if not sooner. If this proposed legislation had been considered on its merits by Congress in light of this GAO report, one can assume that the Members would not have decided to inflict this devastating injury on the Commonwealth.

See comment 5.

Even if the new Congress in January 2009 decides to revisit this legislation, this report will be of little value. By that time, the corroding and depressing impact of this report (if published) on consumer sentiment and investor behavior will already have been felt. Any amendment of the law would then be considered in light of the actual or proposed implementation of the law by the Department of Homeland Security and the Secretary of Labor. The current GAO report will have little relevance to future Congressional deliberations regarding the Commonwealth's immigration and labor laws. If published in its present form, it will be cited in the future only as an example of the needless damage that a well-intentioned but deficient GAO report can cause to a distant island community of United States citizens in the Western Pacific, lacking even non-voting representation in the U.S. Congress.

See comment 1.

See comments 5 and 6.

2. The report's emphasis on the lack of relevant data and its identification of alternative courses to be considered by the implementing federal agencies without recommendation provide no useful information or guidance for agency personnel fully capable of understanding Public Law 110-229 with the assistance previously provided by GAO in its report (GAO-08-466) dated March 2008.

See comment 5.

The GAO report repeatedly identifies critical data deficiencies, beginning with its introduction's comment that the implementing agencies may have difficulty in obtaining data on the CNMI labor market on which to base their decisions. The GAO makes 45 references to data problems in its 109-page report.² There is no reason to doubt that the Department of Homeland Security and the Department of Labor are equally aware of the data needed to perform their responsibilities under this or other laws.

² These references are illustrative: Relevant data not collected by CNMI or federal agencies (p.5); key federal sources of labor market data do not cover the CNMI (p.6); critical data on foreign investment in the CNMI are not available (p.7); critical data on the CNMI labor market are not available (p.8); needed data are lacking on which DHS and DOL could base their decisions (pp. 24-25); United States does not collect data on the CNMI as it does for the U.S. generally (p.26 n46); DOL will have difficulty obtaining data on unemployment (p.30); data lacking on tourist expenditures (p.49); lack of data on permit refusal rates (p.51); lack of data on foreign investors (p.55); lack of data on foreign investment (p.56); lack of data on amount of investment associated with permits (p.57); data unavailable on extent to which foreign investment decisions are affected by availability of various kinds of permits (p.58); lack critical data on CNMI labor market and foreign investment (p.64); data gaps limit federal agency capabilities to make key implementation decisions (p.65); data do not permit distinctions between non-citizens who are permanent and temporary residents (p.70); insufficient data on visa interview wait times (p.71); overall data on foreign investment not collected by CNMI or federal government (p.72).

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

The federal government has consistently ignored the insular areas (except for Puerto Rico) in the systematic collection of population and economic data of the kind available to the States. While State governors have readily at hand current data showing the state of their economies virtually week by week, the Governor of the CNMI is denied comparable data. The problem has recently come to light as Congress considered the application of the federal minimum wage levels to American Samoa and the Commonwealth. During hearings on the subject which required appraisal of a Department of Labor study, the attending Members of the Senate Committee on Energy and Natural Resources acknowledged that it was virtually impossible to make sensible and informed decisions with respect to these insular areas in the absence of the kind of data that is routinely collected with respect to the States, counties, and communities in the 50 States.

See comment 7.

A provision in the Iraq War Supplemental Funding bill signed on June 30, 2008, seeks to address this problem for the first time. It requires federal agencies to include the CNMI and American Samoa in regular studies done for the 50 States. The requirement applies to the U.S. Department of Labor's household and establishment surveys, the Bureau of Economic Analysis' gross domestic data reports, and the Census Bureau's population estimates and demographic profiles. It also directs GAO to study the impact of the first two minimum wage increases in these two insular areas, specifying that the study should include an examination of how the rate increases have affected the rates of employment and the living standards of workers. The GAO study is due between March 15, 2009, and April 25, 2009.³

See comment 6.

Regardless of whether critical data is available or not, the GAO draft report observes that the impact of the law will depend (largely or in part) on decisions by the implementing agencies in writing appropriate regulations.⁴ With respect to each of the three areas discussed in the report -- labor market, tourism, and foreign investment -- the report identifies the relevant provisions of the law as it had done previously in its earlier report. In each area it then focuses on the decisions that need to be made by the responsible agencies, in some instances providing examples of possible outcomes, but scrupulously avoiding any substantive recommendation. Large sections of the report are basically descriptive in nature; the report offers virtually no qualitative judgments or expertise to assist the agencies in making the decisions required by the law. The most important exception to the report's self-imposed reticence is its effort to measure the economic impact on the Commonwealth of the mandatory removal of all its foreign workers (18,942 as of June 30, 2008) from the community by December 31, 2014, or possible later dates.

See comment 8.

³ The GAO report might have made a useful contribution on this subject by acknowledging that the existing data problems are not subject to a quick fix. In fact, critical data of the kind necessary to measure the impact of the recent wage increases, or of the implementation of Public Law 110-229, will not be available until 2012, when the results of the 2010 census are published.

⁴ The introduction to the report summarizes the GAO's findings: (a) "The impact on the CNMI's labor market of the recent legislation applying U.S. immigration law will largely depend on decisions that the Department of Homeland Security (DHS) and the Department of Labor (DOL) make in implementing a permit system for CNMI workers as required by the legislation." (b) "The impact of the recent legislation on the CNMI's tourism sector will depend largely on federal regulations specifying the countries to be included in a joint CNMI-Guam visa waiver program required by the legislation." (c) "The recent legislation's impact on CNMI foreign investment will depend in part on DHS decisions regarding the application of U.S. nonimmigrant treaty investor status -- "grandfathering" -- for investors with CNMI foreign investor entry permits." This same point was made frequently in GAO's earlier report. GAO-08-466 (Introduction, pp. 4-6)

See comments 10, 11,
and 12.

See comment 8.

See comment 1.

See comment 9.

See comment 9.

See comment 9.

See comment 12.

3. The report's assessment of economic impact on the Commonwealth economy will be accepted as accurate and widely publicized despite the obvious limitations of GAO's methodology and the assumptions used by the staff in applying it.

The report's discussion of economic impact resulting from the required removal of all foreign workers by the end of 2014, or perhaps some later date (pp.24-38), summarizes, as GAO had discussed in its earlier report, the decisions to be made by the Secretary of Homeland Security and the Secretary of Labor under the new law. It then focuses on Homeland Security's discretion in deciding how many permits will be issued to employers for foreign workers each year and the Secretary of Labor's decision whether and when to grant an extension of the transition period.

On the assumptions that Homeland Security would reduce the number of permits annually at a constant rate and that the Secretary of Labor would grant an extension of the transition period every two years, the GAO report estimates the projected impact on the Commonwealth's GDP (nominally set at 100 in 2007) by a methodology which assessed the impact of various assumptions on GDP using 10,000 simulations. The range of impact by the year 2021 was between a 25% reduction in GDP to a 75% reduction in GDP, with the middle 50 percent of the results showing a 50-60% reduction in GDP. It is this projection of substantial injury to the Commonwealth that prompts our request that publication of this report be delayed.⁵

We believe that the methodology used in the draft report is inadequate in the following respects:

1. The report does not demonstrate how the overall CNMI economy would be affected in such familiar economic terms such as production, employment, wages and salaries, personal income, population, labor force, and others. It provides no baseline against which impacts might be evaluated, and it does not take into account what would be occurring in the rest of the economy during the impact period.

2. The impacts on the CNMI economy would better have been estimated by utilizing a more conventional economic framework rather than general statistical techniques. The results of the agency's simulations indicate that restricting the number of foreign workers would cost CNMI ten to seventy-five percent of its economy. Apart from providing a meaningless range of impacts, the analysis is based on a very simple model with no empirical underpinnings.

3. The report does not demonstrate how the impacts would affect the likelihood or length of economic recovery especially in imposing such economic and social instability on the CNMI.

⁵ Even this scenario does not accomplish the statutory objective, leaving about 2000 foreign workers in the CNMI by the year 2021. The other two scenarios shown on page 37 show a different rate of reduction of permits by Homeland Security, but the same assumption regarding Labor's grant of extensions. The report does not assess the impact of using the two other identified assumptions with respect to the extension of the transition period -- the decision not to grant any extension beyond 2014 or the decision to grant an extension after 4.5 years of each transition period has elapsed. It seems obvious that the projected impact on the CNMI economy would be much greater (and sooner) under either of these alternatives than the 50-60% reduction in GDP by 2021 shown by the only simulations analysis set forth in the draft report.

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

See comment 9.

4. The report states that these GDP impact estimates are not predictive of future GDP because they did not take into account other changes occurring in the CNMI economy (p. 36). GAO suggests that it is rather an attempt to determine the effect of the removal of foreign workers on GDP. However, this too is a GDP prediction. If the GDP simulations are not predictive of GDP, then they are not predictive of how GDP would be affected by the removal of foreign workers. They are both based on the same GDP predictions.

See comment 10.

The scenarios used by the draft report in assessing impact reflect an incorrect reading of the law. Figure 6 on page 27 and most of the components of Figure 7 on page 33 fail accurately to reflect the law's provisions. It is clear that no mandatory reductions can be implemented before the beginning of the transition program on June 1, 2009, unless it is extended by 180 days. The charts fail to recognize, however, that the law permits all foreign workers to remain for two full years after this date, or June 1, 2011, if the worker's permit so provides. The Commonwealth labor law provides that workers whose contracts expired during the period from June 1, 2008 to June 1, 2009, could get extensions so that they would be eligible for new contracts shortly before June 2009. In addition, the law provides for two-year contracts. This means that most employers will provide such contracts for all of their foreign workers that they wish to retain for as long as possible. As a result, very few contracts will expire before June 1, 2011. Accordingly, it cannot be assumed that any meaningful reduction of foreign workers under the new federal law can begin until that date. This means that all of the curves shown in Figures 6 and 7 are wrong.

See comment 11.

If this report is ever published, GAO needs to revise its scenarios accordingly, especially the version that contemplates that the Secretary of Labor will grant an extension for five years every two years. In light of the circumstances described above, it would be most unrealistic to assume that the Secretary would seek an extension on or about June 1, 2011, the very date on which significant reductions of foreign workers as mandated by the law would commence. More likely than not, under this scenario the Secretary would have to wait at least one year before conducting an analysis of the factors listed in the law on the basis of which he is to make his determination. Because many of these factors appear to rely on non-existent data, the Secretary might well conclude that no such determination could be made until sometime in 2012, when the results of the 2010 census are published and available for analysis.

See comment 12.

The report's use of the methodology with only a single scenario provides incomplete information for the implementing agencies. If this report is to be published, we believe that the GAO report should apply its methodology to the two other scenarios identified relating to the Secretary of Labor's authority to extend the transition period. The current draft uses only the scenario in which the Secretary grants an extension every two years – the scenario most likely to produce the least adverse economic impact on the CNMI. In the interest of completeness and fairness, GAO should apply the same simulations approach to the scenario in which no extension is granted, and to the scenario in which an extension is granted four and one-half years into each five-year extended transition period, in order to help inform the Secretary of Labor of the possible impacts of the available alternatives.

See comment 13.

4. The report's assessment of future demand for foreign workers in the Commonwealth is faulty, ignores recent evidence of economic recovery, and fails to address the fundamental issue arising from the small United States citizen population.

See comment 13.

After forecasting this drastic economic result of Public Law 110-229, the draft report blandly asserts that this impact might be lessened by the projected decline in the demand for foreign workers resulting from additional garment factory closures, "challenges" in the visitor industry, and continued increases in the minimum wage. GAO's efforts in this regard fall far short of providing any comfort to those who care about the Commonwealth. Indeed, the report's discussion of these issues leaves the impression that with the recent changes in trade rules, external events that have affected the visitor industry, and increasing minimum wage rates, the CNMI economy is likely to decline so severely that the effects of the new law will be mitigated.

See comment 13.

Apparel Factory Closures: The figures regarding the apparel industry (p. 10) need to be updated. We have previously advised GAO that as of December 2007 there were only seven apparel factories operating in the CNMI. With the closure of one additional factory in May 2008, the Commonwealth now has six factories, with total employment of 1751, of which about 1500 are foreign workers. From 1998 to 2002, the CNMI collected, on average, \$38 million per year in user fees from this industry. The figure fell to \$13.4 million in fiscal 2007 and is estimated to total about \$7 million for fiscal 2008.

See comment 13

It is very unlikely that the recent closures will have any further impact on the overall demand for foreign workers in the Commonwealth for two reasons.

First, most of the workers previously employed by recently-closed factories have repatriated voluntarily to their home countries and these departures are generally reflected in the current LIIDS figures with respect to foreign workers presently in the CNMI. Our most recent LIIDS data, calculated as of June 30, 2008, show a total of 18,942 contract workers in Immigration Category 706(k). There have been no advance announcements as required by CNMI law by any of the six factories presently in operation regarding their anticipated closure within 60 days. Two of these factories have been adding new employees to their operations.

See comment 13.

Second, the new CNMI labor law and implementing regulations provide for a secondary preference for on-island workers which gives these workers preference for available jobs (after the primary preference for U.S. and FAS citizens) over new hires from off-island. In addition, the new CNMI Department of Labor website displays all available jobs in the CNMI, thereby giving displaced foreign workers a much better source of information about alternative opportunities. The placement of on-island workers is much more efficient than it has been in past years.

See comment 13.

Renewed Growth in Visitor Industry: It is true that the visitor industry has declined over the past few years. GAO prefers to use the term "challenges," but most economists would be more explicit and acknowledge a decline in output. Visitor arrivals in fiscal 2007 amounted to 395,360 – the lowest number in more than 15 years. However, since GAO representatives visited the CNMI in September 2007, both Asiana and Northwest Airlines have increased their

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

See comment 13.

seat capacity to serve the Commonwealth and lessen the adverse impact of Japan Airlines' departure from the market in 2005. As a result, the Commonwealth is now experiencing a significant increase in arrivals and is projecting about 437,832 arrivals for fiscal 2008 – an increase of 10.7% over 2007. The Marianas Visitors Bureau projects a further increase in arrivals, perhaps as high as 535,940 – an increase of 22.4% – for fiscal 2009. This increase in arrivals has already been reflected in small increases in hotel occupancy and room rates, although the dramatic increase in energy costs in the Commonwealth during the past year has adversely affected the ability of many CNMI hotels to operate profitably.

See comment 13.

We believe that favorable developments as well as “challenges” should be included in the text of the report. In this connection, we believe that the report should include references to the major projects underway on both Saipan (LaoLao Golf Resort expansion and Palms Resort renovation) and Tinian (MRDC and Bridge Investment construction projects). Together with the projected increases in visitor arrivals, these large development projects require a revision of the current draft to reflect the possibility that the demand for foreign workers in the CNMI may increase (rather than decrease) in the next few years.⁶ The Commonwealth's recovery from its current economic depression, impossible if the new law is implemented as written, might also enable CNMI businesses to absorb the minimum wage increases that have already been put in place without the reduction in the demand for foreign workers assumed by the draft report (pp. 40-42).

See comment 14.

Limited Size of U.S. Citizen Workforce: The draft report never squarely confronts the fact that the 30,000 United States citizens in the Commonwealth— men, women, and children – cannot provide the workforce of approximately 30, 000 workers (currently including 18,942 foreign workers) needed to support the CNMI economy and produce the standard of living promised by the Covenant (properly capitalized). The report acknowledges some efforts in the Commonwealth to increase the number of U.S. citizens in the private sector (pp. 43-44).⁷ The report recognizes, however, that “several factors may impede these efforts' effectiveness” – such as the limited number (400) of high school and college graduates who seek full-time employment in the CNMI each year, the departure of U.S. citizens from the CNMI for better economic opportunities in other U.S. locations, the need for language skills in some jobs, and a reluctance among U.S. citizen workers to perform some of the unskilled jobs currently held by foreign workers (pp. 44-45). Even if all the unemployed U.S. citizens and FAS citizens were to take jobs held by foreign workers, that would still leave some 17-18,000 jobs unfilled if all foreign workers were forced to leave the Commonwealth. This is the “challenge” that the draft report declined to face and, in so doing, ignored the history of the Commonwealth and the more objective and practical assessment of the situation by GAO's earlier report on the CNMI in February 2000.

See comment 15.

⁶ We acknowledge that a few of these projects are mentioned in Appendix III and that the report also mentions the military buildup on Guam and its possible impact on the CNMI. Our point basically is that the report should not seek to avoid addressing the real impacts of the law on the CNMI economy by emphasizing that the economy is likely to decline substantially without regard to the new law.

⁷ The report tends to belittle such efforts by suggesting that they are of recent origin. The Commonwealth's efforts in this area have been ongoing for some 20 years and have had some considerable success. Nearly all of the foreign workers in the CNMI government have been replaced. Many foreign workers in higher-level private sector positions have also been replaced.

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

See comment 15.

The negotiations that produced the Covenant are replete with references to the need for foreign workers to develop the future Commonwealth economy. The economist for the Marianas Political Status Commission in 1973 projected a substantial increase in the number of foreign workers (from 1,500 to 7,500) by 1981 to staff the hotels that he predicted would exist at that time. The negotiators for both the Northern Marianas and the United States recognized that the Commonwealth would not have sufficient workers from the U.S. citizen population to support an economy that could produce a decent standard of living in the Commonwealth. Although the negotiators did advance different projections regarding the desired pace and extent of the area's economic development, the United States representatives never suggested that the future United States citizens in the Commonwealth would be limited in the pursuit of their economic goals by some fixed limitation on the number of foreign workers that might be lawfully employed in the CNMI.⁸

See comment 15.

The report of the Government Accountability Office, dated February 2000, regarding the Commonwealth's economy grasped the essential nature of the situation with more realism and candor than the current draft report.⁹ It emphasized the critical importance of the economic tools provided the CNMI by the Covenant, including control over immigration, to grow and support an economy that would meet the needs of this small island community. It referred to the historic fact that "local representatives recognized that the native labor pool of the Northern Marianas was too small and did not have all the skills needed to support economic development."¹⁰ It properly described the use of the Commonwealth's control of immigration to bring in foreign workers "under temporary, but renewable, work permits" and added that "Many foreigners have entered the CNMI to work or to open and operate businesses."¹¹ The 2000 GAO report acknowledged that "The garment and tourist industries are dependent on foreign workers for much of their workforce because the labor pool of local residents, even including those currently unemployed, is insufficient to support an economy of the size and scope that exists in the CNMI."¹² The current draft report's failure even to mention its earlier analysis suggests an institutional reluctance (or inability) to defend the very different approach being taken in the current report.

See comment 16.

These basic facts regarding the needs of the CNMI economy and the limitations of the United States citizen workforce are as true today as they were in 2000. Indeed, the significant reductions in the number of foreign workers (from about 34,000 to 18,942) and the overall population in the CNMI (from 69,000 to probably less than 60,000), as well as the increase in minimum wage levels, should have led to a more objective assessment of the current CNMI economy than is contained in this draft report. At page 13, for example, the draft report relies on 1995 figures to support the proposition that "the CNMI economy developed a two-tiered

⁸ Willens and Siemer, *An Honorable Accord: The Covenant between the Northern Mariana Islands and the United States* (Honolulu: University of Hawaii Press, 2002), pp. 15, 107-108, 123-125, 180-181. The Commission's economist anticipated more rapid development in the visitor industry than occurred, but was essentially correct about the reliance of foreign workers in that industry, whose growth exceeded his expectations by the mid-1980s.

⁹ GAO/RCED/GGD 00-79, Northern Mariana Islands: Garment and Tourist Industries Play a Dominant Role in the Commonwealth's Economy (February 2000).

¹⁰ *Id.*, 20.

¹¹ *Ibid.*

¹² *Id.*, 9.

See comment 16

wage structure, with U.S. citizens and permanent residents earning 3.5 times more than temporary residents in 1995.” This particular indictment of the Commonwealth, whatever economic significance it may have, was effectively rebutted in the 2000 GAO report, which analyzed the difference between wages earned by those born in the CNMI and those born in Asia within four occupational categories. It concluded that “a greater percentage difference exists between local and foreign workers’ wages in less skilled occupations – such as the service industries and operators, fabricators, and laborer [sic]—than in the more skilled positions – such as managerial and professional or technical, sales, and administrative positions.”¹³ The GAO’s complaint about a two-tier system that existed in the CNMI in 1995 is outdated, overstated, and irrelevant to this economic study. A similar two-tier wage structure could be readily found in Washington DC, where professionals working for the United States Government with advanced degrees earn several times more than the unskilled workers engaged in construction or garden maintenance.

See comments 17 and 18.

5. The report reflects a basic misunderstanding of the CNMI workforce and contains outdated information and factual errors.

We are attaching to these Comments an appendix containing numerous proposed corrections to the draft report for GAO’s consideration. On a more fundamental matter, we believe that the draft report inaccurately describes the status of foreign national workers in the CNMI economy and that this, in turn, may reflect a misunderstanding of some considerable importance.

See comment 17.

GAO’s definitions of the terms “foreign worker” and “CNMI resident worker” are inaccurate and should be changed. The draft report (p.1, fn.1) defines “foreign worker” to mean persons “who are not U.S. citizens or lawful permanent residents.” All foreign workers are lawful residents of the CNMI and the courts have consistently so held. GAO borrows the term “foreign worker” from the current CNMI labor law, but the GAO assumes that “foreign worker” is the equivalent of “temporary worker” or “temporary resident.” (e.g. pp. 3, 13, 15, 70, 97). This is not correct. Foreign workers in the Commonwealth have entered and remained in the CNMI legally under a system unique to the Commonwealth that provides for an indefinite, not temporary, stay. So long as a worker is employed and complies with Commonwealth law, the worker is entitled to remain in the CNMI, working for his current or another employer. There is nothing “temporary” about this workforce. We recognize that this is a system different from the prevailing United States system and had assumed that GAO would acknowledge these differences rather than seek to equate the Commonwealth foreign worker program with the United States “temporary worker” programs.

See comment 18.

Whether the permits are considered “temporary” because they have to be renewed each year or not, this does not mean either that the jobs filled by the foreign workers are “temporary” or that the workers are “temporary non-U.S. citizens.” (pp. 13, 16). If a worker is employed and obeys Commonwealth law, he or she may stay in the CNMI for as long as desired and thousands of foreign workers have been in the Commonwealth for more than ten years. It is incorrect to state as GAO does (p. 16) that the CNMI Department of Labor certifies non-citizens’ eligibility for “temporary work.” The Department does not certify anyone; it grants an entry permit, which is good for one year and is renewable. The work for which entry permits are granted is not “temporary.” The job must be

See comment 18.

¹³ *Id.*, 24-25. The pertinent charts indicate that the wage differences in two of the categories were less than 50%.

Appendix XII: Comments from the
Commonwealth of the Northern Mariana
Islands Government and GAO's Evaluation

substantial and the position must be advertised, No advertisement for any of these positions ever says "temporary." The situation with respect to foreign workers is essentially the same as for foreign investors. As recognized by GAO (p. 17), foreign investors may renew their permits as long as they maintain certain levels of investment and obey Commonwealth law.

See comment 18.

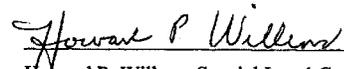
We suggest that GAO change its terminology so as to focus on citizenship rather than residence, which leads to some of the confusion and inaccuracy of concern to us. There are "U.S. citizen" workers; there are "FAS citizen" workers; and there are "foreign national" workers. All of these persons who live in the CNMI are "residents" of the CNMI. It would be clearer to the reader to use these terms and to footnote the category of "US and FAS citizen worker" to include the few foreign nationals who established permanent residence under Trust Territory law and under local CNMI law briefly in effect during the early 1980s. In our view, residence has nothing to do with the distinction among categories of workers, whereas citizenship and nationality can be used to increase the accuracy and utility of the GAO report.

See comment 19.

The draft report's reference (pp. 5, 72) to "undocumented foreign workers" is also incorrect. Every foreign worker in the Commonwealth is documented. No one walks across the border in the Commonwealth to enter illegally as millions of aliens have done in the United States. The use of the term is very prejudicial, suggesting that the CNMI suffers from the same problem with illegal aliens as does the United States. There are foreign workers in the CNMI whose documentation is not current, but the Commonwealth has their photos, passport images, and all of the information that they provided in support of their application for a permit. The number of foreign workers in the Commonwealth without current permits has been reduced substantially within the last year as a result of the elimination of the various case backlogs at the Department of Labor. We recommend that the phrase "undocumented foreign workers" be deleted from the text of the report.

Conclusion

The Commonwealth is very concerned about this draft report and the injury its publication will do to our community. We request that these Comments be considered carefully and that GAO withhold publication of the report at this time.


Howard P. Willens, Special Legal Counsel

The following are GAO's comments on the CNMI government's letter dated July 9, 2008.

GAO Evaluation

1. The CNMI government stated that this report should not be published in its present form because its discussion of possible consequences to the CNMI economy could itself harm the CNMI (see letter pages 1, 3, and 5). We believe it is essential to report the key decisions facing federal agencies and to illustrate a range of potential impacts those decisions could have on the CNMI economy, rather than concealing the possible consequences of implementation. Fully informed and coordinated federal agencies will be best capable of making decisions that minimize adverse consequences for the CNMI economy. Furthermore, the CNMI government itself has asserted that the legislation would harm the CNMI economy, as stated publicly in press releases and congressional testimony.¹
2. The CNMI government inaccurately stated that the report predicts a substantial decline in the CNMI economy as a result of the legislation, misstating our message that the impact of the legislation on the CNMI economy will depend on various U.S. agency decisions (see letter pages 1 and 3). Our report's GDP simulations illustrate a range of possible outcomes of various federal decisions regarding the CNMI-only work permit program, ranging from minimal to substantial impact on the economy. We found that varying rates of reduction in CNMI-only permits for foreign workers resulting from the agencies' decisions could decrease CNMI GDP to a range of about 98 percent (minimal impact) to 21 percent (substantial impact) of current levels, holding other factors constant. The 50 percent reduction in GDP noted by the CNMI government represents only one possible outcome in this range. The scenario producing this outcome is neither unrealistic nor the most favorable, as the CNMI government contended; rather, it includes the steepest decline in CNMI-only work permits of the scenarios illustrated. The actual extent of the legislation's impact on the CNMI economy will depend on the key federal decisions related to foreign workers, tourists, and foreign investors identified in our report, as well

¹For example, the Governor of the CNMI stated in a June 24, 2008, press release that preliminary analyses from independent economists retained by the CNMI government indicated that deportation of about 20,000 foreign workers, and their families, from the CNMI would reduce its economic output by at least 50 percent. DOI's Office of Insular Affairs provided funding to the CNMI government for a comprehensive assessment of the CNMI economy.

as other factors in the economy. In addition, our report clearly states that the GDP simulations should not be considered predictive of future GDP because they do not allow for other changes in the CNMI over the coming years. *Ceteris paribus*—holding all else constant—is a common and necessary assumption in many economic analyses. The simulation illustrations should be considered in conjunction with other findings in this report on industry trends and the scheduled minimum wage increases.

3. The CNMI government expressed concern that the report has not received extensive peer review by professional economists or political clearance at the highest level (see letter page 1). GAO has a rigorous internal review process, and this report received the input and review of numerous economists and analysts, as well as senior GAO officials. GAO also has an external agency comment process, providing affected officials—in this case senior officials of various federal agencies and the CNMI government—with an opportunity to comment on the report's methodology and technical accuracy, among other topics. We considered these comments in the course of finalizing the report and addressed them as appropriate. In addition, our work was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.
4. The CNMI government incorrectly described the scope and evolution of our work as agreed with Congress (see letter page 2). We consulted with our congressional requesters as we developed the report, and the report we produced is consistent with our agreement with the requesters. Our scope and methodology as agreed with the requesters did not include an agreement to issue a report prior to the legislation's consideration, nor did it include an assessment of whether the legislation should be enacted. We addressed the research objectives included in the scope and methodology both in our March 2008 report and the current report, as agreed with our requesters. The scope and methodology language that the CNMI government cites in its letter reflected the fact that the legislation was pending at the time the study was initiated, not that it necessarily would be pending when the report was issued.
5. The CNMI government stated that the report does not provide useful information to federal agencies and that the report will have little

relevance to future congressional deliberations regarding the CNMI's immigration and labor laws (see letter page 3). We disagree. Moreover, we note that the federal agencies that reviewed a draft of this report agreed with our findings and recommendations and said that the report was useful.

6. The CNMI government also incorrectly stated that the report provides no recommendations (see letter pages 3 and 4). We disagree. In fact, we make recommendations to DHS and DOL. We recommend that the Secretary of Homeland Security lead other relevant federal agencies, including the Departments of the Interior, Labor, and State, in identifying the interagency process that they will use to coordinate their decisions—and consult with the CNMI government as required—in jointly implementing the legislation. We also recommend that the Secretaries of Homeland Security and Labor jointly develop strategies for obtaining critical data on the CNMI labor market and on CNMI foreign investment.
7. The CNMI government incorrectly stated that the 2008 Supplemental Appropriations Act² requires federal agencies to include the CNMI and American Samoa in regular studies conducted for the 50 states (see letter page 4). It also incorrectly stated that the law mandates a GAO study on minimum wage increases in the CNMI and American Samoa. These provisions were included in earlier versions of the bill but not in the enacted law.
8. The CNMI government inaccurately stated that the report included “discussion of economic impact resulting from the required removal of all foreign workers by the end of 2014, or perhaps some later date” (see letter pages 4 and 5). Our report does not state that all foreign workers will be removed. The legislation requires that CNMI-only work permits be reduced to zero by the end of 2014 or any extensions of the permit program, but it does not require the removal of all foreign workers—for example, workers with valid H visas and other U.S. work visas would be permitted to remain.
9. The CNMI government raised concerns about the report's methodology, including the GDP simulation methodology (see letter pages 3, 5, and 6). We believe our methodology is a sound approach for analyzing the potential impact of federal implementation decisions on

² Supplemental Appropriations Act, 2008, Pub. L. No. 110-252, 122 Stat. 2323 (June 30, 2008).

the CNMI economy. The CNMI government raised several specific concerns:

- The CNMI government expressed concern that the report does not demonstrate how the CNMI economy would be affected in terms of production, employment, wages and salaries, personal income, population, labor force, and other factors. As the report notes, although we could have attempted to estimate other aspects of the effect of the reduction of foreign workers on the CNMI economy, such as the average earnings of CNMI residents, we selected total GDP, a measure of both production and national income, to measure the effect of reductions in foreign workers on the overall economy—and the basis of CNMI government tax revenue—rather than on any particular group.
- The CNMI government stated that the report provides no baseline against which impacts might be evaluated and does not take into account factors in the rest of the economy. However, the report accounts for factors including industry changes and minimum wage increases in the section following the GDP simulations.
- The CNMI government stated that the analysis is based on a simple model with no empirical underpinnings. We disagree. The simulation is based on the number of foreign workers relative to the number of CNMI resident workers, according to the 2005 Household, Income, and Expenditures Survey (HIES)—an empirical underpinning. As noted in the report, the production function we use in the GDP simulations has been used prominently in published, peer-reviewed economic studies to model contributions of different groups of workers in an economy.
- The CNMI government stated that the report did not demonstrate how the impact of the legislation would affect the likelihood or length of CNMI economic recovery. We agree. The scope of this report is limited to the factors that will affect the impact of the legislation's implementation on the CNMI economy, and the likelihood or length of CNMI economic recovery is beyond the scope of our review.
- The CNMI government comments also inaccurately stated that the report predicts a substantial decline in the CNMI economy as a result of the legislation. As noted above, these scenarios are illustrative of a range of possible outcomes depending on the interaction of DHS and DOL decisions and do not predict or estimate the likelihood of each scenario.

10. The CNMI government stated that figures 6 and 7 reflect an inaccurate reading of the law because they do not recognize that the legislation allows current CNMI foreign workers to remain in the CNMI for a limited time after the start of the transition period (see letter pages 5 and 6). However, figure 6 notes that while the figure is limited to current CNMI foreign worker permits (706K) before and at the beginning of the transition period and to CNMI-only work permits after the transition period begins, under the legislation, foreign workers legally present in the CNMI as of the transition program effective date but who do not obtain U.S. immigration status may continue residing and working in the CNMI for a limited time—2 years after the effective date of the transition program or when the CNMI-issued permit expires, whichever is earlier. We have added the same note to figures 7 and 8. Incorporating this provision in the figure would not change the message of our report; rather, it would result in steeper rates of reduction in CNMI-only work permits and a delay of 2 years or less in the start of the illustrated reductions.
11. The CNMI government contended that it is unrealistic to consider an extension of the CNMI-only work permit program by the Secretary of Labor around June 2011 given gaps in available data on the CNMI labor market (see letter pages 3, 5, and 6). The report illustrates a range of options available to DOL without predicting the department's decisions related to the extensions. DOL reviewed the draft report and expressed no concerns regarding the figures or the possible timing of department decisions. In addition, implementation of our recommendation that the Secretaries of Homeland Security and Labor jointly develop strategies for obtaining critical data on the CNMI labor market, as well as on foreign investment, would help address data gaps.
12. The CNMI government suggested that we apply the GDP simulation methodology to the scenarios in figure 7 depicting no extension of the CNMI-only permit program and extensions every 4.5 years (see letter pages 5 and 6). We have added to the report discussion of these scenarios' likely effects on GDP. Applying the GDP simulation methodology to the other scenarios would yield more rapid declines in GDP, corresponding to the more rapid declines in CNMI-only work permits for foreign workers related to DOL decisions not to extend the CNMI-only permit program or to extend it every 4.5 years. In addition, we can provide additional simulations to congressional requesters or federal agencies if they request them. However, because of the nature of the functional form used, we cannot use it to evaluate the case in which the number of CNMI-only work permits is equal to zero. We note

this limitation in appendix VI, which provides additional information about the GDP simulations.

13. The CNMI government contended that the report's assessment of future demand for foreign workers in the CNMI is faulty and ignores recent evidence of economic recovery (see letter pages 7 and 8). The CNMI government said that the recent garment factory closures are unlikely to further impact the overall demand for foreign workers in the CNMI. We updated data in the report on the number of CNMI garment factories in operation. However, the CNMI government provided no convincing evidence that the CNMI's loss of jobs related to the garment industry has ended. Furthermore, this statement contradicts interview statements from CNMI officials and press accounts regarding the decline in the garment industry. The CNMI government noted that the CNMI has a preference for on-island foreign workers over off-island foreign workers (after the primary preference for U.S. citizens and Freely Associated States citizens). However, this preference does not contradict our findings regarding the demand for foreign workers. The CNMI government also incorrectly stated that the report said the CNMI economy was likely to decline substantially without regard to the new law. The report discusses possible impacts of industry trends and minimum wage increases on demand for foreign workers but does not provide projections about the future CNMI economy. The CNMI government also stated that although the CNMI had experienced recent declines in visitor arrivals, the Marianas Visitors Authority³ is projecting increases in fiscal years 2008 and 2009. It suggested including these and other favorable developments in the report. We have noted the projected visitor increases in the report, and recent development projects are already mentioned in appendix III. In addition, any positive economic developments should be considered by DHS and DOL in their decisions regarding the CNMI-only work permit program.
14. The CNMI government stated that the CNMI's recovery from its current economic depression might enable CNMI businesses to absorb the minimum wage increases without reductions in the demand for foreign workers (see letter page 8). However, the CNMI Governor testified in February 2008 that the CNMI was in its third year of a serious economic depression and that the minimum wage increase

³ While the comment letter cited the Marianas Visitors Bureau, we assume it refers to the Marianas Visitors Authority.

would seriously impede the CNMI's efforts to strengthen its economy over the next 12 to 18 months.⁴

15. The CNMI government also stated that the report fails to address the fundamental issue arising from the small U.S. citizen population in the CNMI (see letter pages 8 and 9). However, as the CNMI government notes in its comments, our report already discusses this issue and finds that several factors impede the effectiveness of efforts to replace foreign workers with CNMI residents. In addition, federal agencies can and should consider the availability of CNMI residents in their decisions regarding the CNMI-only work permit program. The CNMI government also said GAO's February 2000 report more accurately described the CNMI's reliance on foreign workers. The findings of the reports are consistent and complementary, and both reports are available to assist federal agencies in understanding the CNMI economy and implementing the legislation.
16. The CNMI government objected to the report's use of the term "two-tier wage structure" to describe the CNMI's 1995 labor market (see letter pages 9 and 10). However, this descriptive statement is accurate based on CNMI data. In addition, as stated in the report, our analysis of 2005 HIES data shows that the average wage for CNMI resident workers in 2004 was \$8.60, whereas the average wage for temporary non-U.S. citizens was \$4.40. The differential in the wages of these groups is relevant because it results in the minimum wage increases disproportionately affecting foreign workers. This is likely to decrease the number of foreign workers demanded by CNMI employers.
17. The CNMI government contended that the report contains outdated information and factual errors (see letter page 10). The report is based largely on the data that we were able to obtain from the CNMI government. In its comments, the CNMI government provided some additional or corrected information that we have incorporated as appropriate.
18. The CNMI government objected to our definition of foreign workers as "workers in the CNMI who are not U.S. citizens or lawful permanent residents," saying that all foreign workers are lawful residents of the CNMI (see letter pages 10 and 11). The CNMI government also

⁴ Senate Committee on Energy and Natural Resources, Hearing on Impact of Increased Minimum Wages on the Economies of American Samoa and the Commonwealth of the Northern Mariana Islands (February 28, 2008).

objected to the term “temporary” to describe foreign workers in the CNMI. Our use of the term “lawful permanent resident” is consistent with U.S. law, and we have not revised it. In addition, we used these terms in our March 2008 report, and the CNMI government expressed no concerns in its review of the report. While we generally use the term “foreign worker,” we are constrained by the terms used by cited data sources. For example, the CNMI’s 2005 HIES includes data on respondents who identified their status as “not a U.S. citizen, temporary resident.” We have clarified the terms where possible.

19. The CNMI government objected to the term “undocumented foreign workers,” saying that the CNMI has documentation on all of its foreign workers but has foreign workers whose documentation is not current (see letter page 11). We have revised the term to “foreign workers whose documentation is not current or valid.”
20. In its technical comments, the CNMI government suggested we add information to the report regarding the immediate relatives of foreign workers, tourists, and foreign investors in the CNMI. We requested information from the CNMI Office of the Governor on immediate relatives from the Labor and Immigration Identification and Documentation System (LIIDS) beginning in October 2007 but did not receive it. In addition, appendix VII includes information on dependents of temporary non-U.S. citizens in the CNMI based on 2005 HIES data.
21. In its technical comments, the CNMI government disagreed with several graphics based on data on issued foreign investor entry permits, previously provided by the CNMI Department of Commerce. The CNMI government provided alternative data that we have incorporated in the report. These include the number of active and valid long-term business and perpetual foreign investor entry permits, as well as the numbers of businesses associated with these permits, as of July 8, 2008, based on the CNMI Department of Commerce’s manual review of its files. However, the new data do not include information on issued entry permits and do not include complete information on permit holders’ countries of origin and other characteristics. As a result, we removed several graphics and related discussion that were included in the draft report. The CNMI government also said that the 2002 U.S. Economic Census, which the letter refers to as the 2002 CNMI Economic Census, provided a source of foreign investment data. While the 2002 Census includes information on CNMI businesses by owner citizenship status, we are not able to use the data in this report because they are incomplete.

Appendix XIII: GAO Contacts and Staff Acknowledgments

GAO Contacts

David Gootnick, (202) 512-3149 or gootnickd@gao.gov.
Tom McCool, (202) 512-2642 or mccoolt@gao.gov.

Staff Acknowledgments

In addition to the contacts named above, Emil Friberg, Assistant Director, Mark Speight, Assistant General Counsel, Marissa Jones, Ashley Alley, Diana Blumenfeld, Benjamin Bolitzer, Ming Chen, Reid Lowe, and Eddie Uyekawa made key contributions to this report. Technical assistance was provided by Shirley Brothwell, Michael Hoffman, Michael Kendix, Rhiannon Patterson, Diahanna Post, Berel Spivack, and Seyda Wentworth.

Related GAO Products

Defense Infrastructure: Planning Efforts for the Proposed Military Buildup on Guam Are in Their Initial Stages, with Many Challenges Yet to Be Addressed. [GAO-08-722T](#). Washington, D.C.: May 1, 2008.

Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period. [GAO-08-466](#). Washington, D.C.: March 28, 2008.

Visa Waiver Program: Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals. [GAO-08-458T](#). Washington, D.C.: February 28, 2008.

Defense Infrastructure: Overseas Master Plans Are Improving, but DOD Needs to Provide Congress Additional Information about the Military Buildup on Guam. [GAO-07-1015](#). Washington, D.C.: September 12, 2007.

Commonwealth of the Northern Mariana Islands: Serious Economic, Fiscal, and Accountability Challenges. [GAO-07-746T](#). Washington, D.C.: April 19, 2007.

Commonwealth of the Northern Mariana Islands: Serious Economic, Fiscal, and Accountability Challenges. [GAO-07-436T](#). Washington, D.C.: February 8, 2007.

U.S. Insular Areas: Economic, Fiscal, and Financial Accountability Challenges. [GAO-07-119](#). Washington, D.C.: December 12, 2006.

Process for Admitting Additional Countries into the Visa Waiver Program. [GAO-06-835R](#). Washington, D.C.: July 28, 2006.

U.S. Insular Areas: Multiple Factors Affect Federal Health Care Funding. [GAO-06-75](#). Washington, D.C.: October 14, 2005.

Immigrant Investors: Small Number of Participants Attributed to Pending Regulations and Other Factors. [GAO-05-256](#). Washington, D.C.: April 1, 2005.

Compact of Free Association: Negotiations Should Address Aid Effectiveness and Accountability and Migrants' Impact on U.S. Areas. [GAO-02-270T](#). Washington, D.C.: December 6, 2001.

Related GAO Products

Foreign Relations: Migration From Micronesian Nations Has Had Significant Impact on Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands. [GAO-02-40](#). Washington, D.C.: October 5, 2001.

Northern Mariana Islands: Procedures for Processing Aliens and Merchandise. [GAO/GGD-00-97](#). Washington, D.C.: May 26, 2000.

Northern Mariana Islands: Garment and Tourist Industries Play a Dominant Role in the Commonwealth's Economy. [GAO/RCED/GGD-00-79](#). Washington, D.C.: February 14, 2000.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "E-mail Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, DC 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548