

# NORTHERN MARIANA ISLANDS IMMIGRATION

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON MINERAL RESOURCES  
DEVELOPMENT AND PRODUCTION  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED THIRD CONGRESS  
SECOND SESSION  
ON THE  
ISSUES ASSOCIATED WITH IMMIGRATION INTO THE COMMONWEALTH  
OF NORTHERN MARIANA ISLANDS



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SEPTEMBER 22, 1994



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## CONTENTS

### STATEMENTS

	Page
Akaka, Hon. Daniel K., U.S. Senator from Hawaii .....	1
Craig, Hon. Larry E., U.S. Senator from Idaho .....	16
Fraser, John R., Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor .....	34
Johnston, Hon. J. Bennett, U.S. Senator from Louisiana .....	14
Murkowski, Hon. Frank H., U.S. Senator from Alaska .....	2
Stayman, Allen P., Acting Assistant Secretary, Territorial and International Affairs, Department of the Interior .....	22
Tenorio, Hon. Froilan C., Governor of the Commonwealth of the Northern Mariana Islands .....	3
Virtue, Paul, Deputy General Counsel, U.S. Immigration and Naturalization Service .....	29

### APPENDIXES

#### APPENDIX I

Responses to additional questions .....	51
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#### APPENDIX II

Additional material submitted for the record .....	55
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# NORTHERN MARIANA ISLANDS IMMIGRATION

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THURSDAY, SEPTEMBER 22, 1994

U.S. SENATE,  
SUBCOMMITTEE ON MINERAL RESOURCES  
DEVELOPMENT AND PRODUCTION,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 9:39 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Daniel K. Akaka, presiding.

## OPENING STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. The Subcommittee on Mineral Resources Development and Production will come to order.

Today's hearing will focus on issues associated with immigration to the Commonwealth of the Northern Mariana Islands, including the increase in the number of non-residents, the lack of an efficient monitoring system to track their entry, as well as reports of labor, physical and sexual abuses against alien workers. Many of these abuses have been directed against women from the Philippines and the People's Republic of China.

I am very anxious to hear from local and Federal officials on what actions they have undertaken or plan to undertake to address these problems. There is growing concern in Congress that the only way to stem these serious abuses is to crack down on an immigration policy that offers an open door to alien workers and organized crime. One solution would be to strengthen Federal oversight, assistance, and enforcement in the Commonwealth.

The current government, under the leadership of Governor Froilan Tenorio, has advanced proposals that offer to correct these long-standing problems. I still remain concerned, however, that an inability of the CNMI government to control these issues will inevitably require Federal involvement.

I firmly believe that the CNMI government is in the best position to respond to these problems, but when CNMI laws and enforcement fail to protect the rights of its population, including alien workers, then Congress will be forced to intervene.

The most recent story on the repeated rape and beating of a Philippine or alien worker on the Island of Rota, who was held against her will for 3 weeks, is just another appalling tale. It deeply, deeply disturbs me, particularly when local officials failed to take the charges of such victims seriously.

It is about time that local officials not only acknowledge that there are critical problems that exist in the Northern Mariana, the government, with the assistance of the legislature, must strengthen local laws to ensure that reform becomes a reality.

It should not have to take news reports and it should not take the outrage of U.S. and foreign officials to highlight problems that exist in the CNMI.

Once again, I would like to commend Governor Tenorio for his reform efforts, but I reiterate that he cannot do it alone. The CNMI legislature, the Congress, and our Federal agencies must all make an equal commitment to assisting the Governor in his efforts.

These reports have been reported nationally. We are hearing from people who are very concerned about this in our country, and we would like to do as much as we can to correct these problems.

And, again, I want to commend Governor Tenorio for his efforts and his willingness to bring about reform efforts. I look forward to hearing from all the witnesses today.

I am glad to have with the committee this morning the Senator from Alaska, Mr. Murkowski, and at this time would like to ask him for his statement.

**STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATOR  
FROM ALASKA**

Senator MURKOWSKI. Thank you very much, Mr. Chairman.

I commend you for holding this hearing. I think it is most appropriate, and I would add an observation that you, representing your State of Hawaii, and mine, Alaska, have a particular sensitivity to the status associated with the territory of the Northern Mariana Islands, as we reflect the most recent States that have made that transition, from territorial status.

And the reasons that we made that transition, of course, were many, but probably the one that stood out the most was lack of representation in the Congress of the United States. It was more or less taxation without representation.

I remember residents of Alaska during the territorial days filing their Federal income tax under protest, and they got the satisfaction of feeling good, but that was all. The Federal Government still taxed them, and they still had no representation.

So I think, Mr. Chairman, as you hold this hearing you will be able to accurately get information relative to allegations that are disturbing over human rights, immigration, and labor abuses, from people who have the best ability to observe reality, as opposed to what perhaps the media may communicate or others may generalize.

There is oftentimes in Washington a reaction that is not necessarily based on fact, but on supposition and inaccurate reports.

I will be interested in reviewing, Mr. Chairman, the results of the testimony given today relative to these concerns. They are certainly legitimate concerns, but we need is to make decisions based on fact and not fiction.

And for that, I think the importance of this hearing speaks for itself. And, again, I come as one who is particularly sensitive to the status of the few remaining territories of the United States.

Thank you, Mr. Chairman.

Senator AKAKA. Thank you very much, Senator from Alaska, Mr. Murkowski, for your comments.

At this time I would like to call forward the Governor of Saipan, the Commonwealth of Northern Mariana Islands, the Honorable Froilan C. Tenorio.

Will you come forward, and at this time we will hear your testimony.

**STATEMENT OF HON. FROILAN C. TENORIO, GOVERNOR OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

Governor TENORIO. Thank you. Good morning, Mr. Chairman, Mr. Murkowski.

This is my first appearance before a congressional committee as Governor, and it is an honor and a privilege to be here. I welcome the opportunity to testify on Commonwealth immigration and related issues. We have spent a lot of time on these matters during the last 8 months, and there is much to tell.

I have submitted a full written statement for the record, with a number of attachments.\* With your permission, and in order to save time, I would like to summarize it at this time.

Mr. Chairman, I am saddened, I am angry, I am disgusted, and I am ashamed of the horror stories of human rights abuses of non-resident workers on Rota, and to a lesser extent, on Saipan and Tinian. Unfortunately, they are generally accurate.

Workers have been cheated, paid less than the minimum wage, forced to live in sub-human conditions, locked in during non-work hours, and even beaten and raped.

I especially cannot begin to express my revulsion at the latest report that a worker in Rota was held in captivity and raped repeatedly over a 3-week period. I hope it is not true. I fear that it is. We are investigating her complaint and will keep you apprised on the progress of the case.

Clearly, we have serious immigration and labor problems, and we are taking positive steps to resolve them. The vast majority of our employers are decent people, who treat their employees well, but there is a significant and persistent pattern of abuse and corruption that cannot be ignored.

Lieutenant Governor Jesse Borja and I were elected last November on a platform of governmental reform. We made a lot of campaign promises, including several regarding immigration and our alien labor problems. We are keeping those promises.

We have changed the whole approach to the very real problems that we have. In the past, the CNMI government responded to congressional complaints about immigration and labor with anger and denial, followed by defensiveness and grudging cooperation. Not any more.

Our administration has taken a proactive stance, and has begun to make real progress, but we recognize that we have a long way to go. We cannot do it alone. We need your help. I am not here to ask you for money, because we prefer to solve these problems locally and to fund them ourselves.

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\*The attachments can be found in appendix II.

What we need is a partnership with the various Federal agencies involved. We need them to enforce applicable Federal laws in the Commonwealth, and we need their expertise to help us understand how to improve our own laws and administer them properly.

A Federal takeover of our immigration will not help and could actually make the problem worse. We have criminal problems. We have problems with working and living conditions.

We have wage and hour problems, and we have administrative problems. But our immigration problems are of a different sort, and the imposition of Federal immigration laws will not stop a single rape or clean up a single barracks.

Even under Federal law employers will be able to get labor certificates to bring in large numbers of alien workers. It is what happens to them after they get to the Commonwealth that is important, and that is not an immigration matter.

Under the Federal law, the INA, many of these foreign workers will be able to adjust their status, get green cards, and qualify for citizenship, which is what local control was designed to prevent.

We may have a lot of foreign workers now, but they rotate in and out, and we can reduce their numbers if that becomes necessary.

Our constitution does not allow us to establish any more categories for permanent residents. We will lose that protection under a Federal takeover, and wind up like other indigenous groups, a permanent minority, an underclass, in our own land.

The INA has not prevented illegal immigration to the United States, nor has it protected factory workers from abuse in California and in New York, nor has it protected migrant workers in rural America.

We do not have to look further than a few miles from this Capitol building to find examples of Chinese laborers who are held in virtual slavery, while they try futilely to pay off an ever-increasing debt to those who brought them to the United States.

Our problems are not so different from the United States. They are, however, more concentrated, and they are our responsibility.

If you take over immigration just when we are starting to reform, you will send a powerful signal to the people of our islands that they do not have to take responsibility for anything. As always, Uncle Sam will clean up our mess for us.

Real change will only come when we take responsibility for it ourselves. You have to let us make some mistakes, and guide us and assist us back on track. Otherwise, it is not our responsibility at all.

We have finally succeeded in making it okay for people to talk about this promise, and public opinion is beginning to change for the better. Give us a chance and the guidance we need, and we will succeed.

On our side of the Commonwealth Federal Partnership, we already have made significant progress in the 8 months since we took office, especially considering where we started from.

Our prompt investigation validated reports of labor violations and abuses on Rota. It also confirmed that the resident rector of Commerce and Labor, who was appointed by the mayor of Rota, was a major part of the problem. I took away his labor duties and



would have fired him, but I was preempted by the mayor, who appointed him to a different position.

A further investigation into his activities is now pending and may lead to criminal charges. Also, the central Commonwealth government will now enforce labor laws in Rota and Tinian to ensure constitutional due process for non-resident workers and uniform application of the law throughout the CNMI.

We already have indicted five Commonwealth officials for corruption relating to immigration and labor, including extortion and solicitation of rights. This is more than during the entire previous administration.

One of these officials has been convicted, and two more face trial in the next few weeks. The coverups of the past are history.

I have directed the attorney general to increase the efforts of his office to prosecute labor violations, and we have submitted legislation to overhaul and put some teeth into our labor laws. We also have brought in a new public auditor with GAO and Federal IG experience.

We have stopped people on welfare from using their government subsidies to import foreign mates. We have just set up a liaison office in Manila to deal with labor problems of the CNMI, and we will establish a similar one in Hong Kong to handle workers from the Chinese mainland.

We have strengthened bonding requirements to assure that funds are available to repatriate workers stranded by bankrupt employers or bonding companies.

We recently enacted the Immigration Enforcement Act of 1994, which enforces stronger penalties on those who violate our immigration laws, and forces sanctions on employers of illegal aliens and other persons who help aliens violate the law.

Over the past several months we deported 65 aliens. Nearly all of them were former workers who overstayed their permits. Ironically, we could have deported even more, had we funds for this purpose.

As you see, we are working to resolve our immigration and labor problems. However, years of mismanagement and neglect will not vanish overnight.

Mr. Chairman, although we are not here to ask for money, we are very grateful to Senator Johnston for his proposal to reserve \$7 million of government funding for fiscal year 1995 for immigration, labor, and other law enforcement. This will help substitute for the funds we might have received if we had been included in the originally enacted Federal crime bill.

We will use a portion of these funds to purchase state-of-the-art immigration tracking systems, and to train our local investigation and enforcement officials. The remainder will actually be used by the Federal Government itself to increase its law enforcement presence in the Commonwealth.

On the Federal side of the partnership, we have requested technical assistance and training from both the INS and the Department of Labor.

Although we have not yet heard from immigration, Labor Secretary Reich has promised to help. On the other hand, we are still

waiting for his response to our proposal that he open an enforcement office on Saipan.

Otherwise, cooperation between the CNMI and the U.S. Department of Labor has been very productive. Together we have managed to improve the living and working conditions of the government workers.

We will now take that same partnership and put it to work making similar improvements in other industries, including construction.

U.S. District Court Judge Alex Munson recently joined me in a letter to the President requesting a U.S. attorney and a U.S. marshal dedicated to the Northern Mariana Islands. Currently, we are a branch of the offices in Guam, and Guam priorities dictate their effort in the Northern Mariana.

Many Federal cases have not been brought to court for lack of resources, for adequate investigation, and prosecution. Interior has supported our requests. Even the U.S. attorney for Guam told me personally that it would be better if the offices were separate.

I am extremely disappointed that we have received no response to our request. Sufficient Justice Department resources must be made available in the Commonwealth for full enforcement of applicable Federal law.

This goes on for all Federal enforcement agencies. Labor abuses in the Northern Marianas are our shame, and any failure to enforce Commonwealth laws is our failure.

However, the Federal Government, not the CNMI government must take responsibility for ending labor abuses that violate Federal laws. Mr. Chairman, the United States and the CNMI governments must also work together to resolve citizenship issues under the Covenant.

In particular, we must end the practice of conferring U.S. citizenship to children born in the CNMI without at least one documented U.S. citizen parent. About 200 to 300 children are born in the Commonwealth each year of alien worker and Micronesian parents, and many of them wind up receiving public assistance.

Last February, I requested 902 consultations to resolve this matter. Instead, it was referred to a Federal interagency group, which confirmed that the present Covenant language only extends to diplomats.

I have, therefore, renewed my request under 902, and I expect the special representatives to come up with recommendations for amending the Covenant by mutual consent to end this problem for good.

Unlimited Micronesian immigration to the Commonwealth under the compacts of free association also has adverse impacts. While we welcome our Micronesian cousins generally, we should not be expected to provide them with welfare and subsidized government services.

We need to be able to deport or refuse entry to indigent Micronesians. We also should be able to bill their home countries for their extraordinary expenses, such as medical referral.

This matter can also be handled under the existing 902 request. If necessary, we would expect assistance from the U.S. Government in negotiating solutions with the freely associated states. We would

also like to be consulted when the time comes for compact renewal negotiations.

Mr. Chairman, I know that some senators are concerned about the large numbers of alien workers in the Commonwealth. However, as long as there remain non-residents, we do not feel overwhelmed. In any event, alien labor is only one part of the problem, and getting rid of alien labor is not the solution.

In the long run, most of our problems will be solved through better education and training of our people and their transfer to good, well-paying private sector jobs. Then we can reduce the size of government without massive unemployment, and we can reduce our dependence on alien labor to the minimum.

This is not easy, and there are no quick fixes. We have some strategies in mind as to how to move in that direction. The minimum wage increase, for example, will help reverse the migration of the best and brightest of our young people to the United States and elsewhere.

It will also produce additional tax revenue to offset the expense of providing public services to foreign workers. We welcome additional ideas from all sources.

However, the simple fact is that our economic potential will outstrip the ability of our population to support our development for the foreseeable future. If our entire population worked in the private sector, we would still need many non-resident workers for years to come.

Getting rid of them is not the answer. It would mean an end to our economic development. It would shrink our economy, cause many local businesses to fail, and result in high local unemployment.

People who try the private sector will turn again to the government as the employer of both the first and last resort. Local tax revenues will be reduced significantly, and the Commonwealth will return to stagnation and dependency on Federal handouts.

In 1986, U.S. immigration laws had to be overhauled. Large numbers of illegal immigrants were given amnesty and employers were held responsible for illegal employment for the first time. After 210 years, the Federal Government still had not gotten it right.

Clearly, we have made mistakes. In the future I hope we will all be able to look back on today's hearing as a guidance session, in which the subcommittee has encouraged us to redouble our immigration and labor reform efforts, and has encouraged the Federal Government to assist us in these worthy endeavors.

With increased assistance from the relevant Federal agencies and the other basic changes I have outlined, I believe we can, together in partnership, resolve the citizenship, immigration, and labor problems that face our Commonwealth.

Mr. Chairman, I promise you and the members of this committee that our administration will do everything in our power to end labor abuse in our islands, and to exercise better control over immigration. Please give us the opportunity and the assistance we need to make these reforms work.

Thank you.

Senator AKAKA. Thank you very much, Governor, for your testimony. We will present you with questions.

[The prepared statement of Governor Tenorio follows:]

PREPARED STATEMENT OF HON. FROILAN C. TENORIO, GOVERNOR OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Thank you, Mr. Chairman. This is my first appearance before a Congressional committee as governor, and it is an honor and privilege to be here. I welcome the opportunity to testify on Commonwealth immigration and related issues. We have spent a lot of time on these matters during these last eight months and there is much to tell.

Mr. Chairman, simply put, we know we have serious immigration and labor problems; we are taking positive steps to resolve them; and we need assistance, not sanctions from the Federal Government.

As you are aware, Lieutenant Governor Jesse Borja and I were elected last November on a platform of governmental reform. We made a lot of campaign promises, including several regarding immigration and our alien labor problems. Perhaps what has surprised people most about our administration is that we are keeping those promises.

We have changed the whole approach to the very real problems that we have. In the past, when the CNMI Government received complaints about immigration or labor problems, there was anger and denial followed by defensiveness and grudging cooperation. Not any more. Our administration has taken a pro-active stance and is making real progress.

WE ADMIT THERE IS A PROBLEM

I am angry, saddened, and ashamed to have to come here before you and affirm that the horror stories of human rights abuses of nonresident workers on Rota, as well as on Saipan and Tinian, are generally accurate. Workers have been cheated, paid less than the minimum wage, forced to live in subhuman conditions, locked in during non-work hours, and even beaten and raped. There cannot be a meaningful discussion of our labor situation without first acknowledging these problems.

However, the vast majority of our employers are decent people, who treat their employees well. The abusive minority may attract more attention, but abuse is the exception, not the rule. Nevertheless, there is a significant and persistent pattern of abuse and corruption that cannot be ignored.

Employers who abuse our guest workers are no better than common criminals, and that is just the way we are treating them. They are being investigated and will be prosecuted for their crimes and subjected to strengthened administrative penalties.

WE ARE TAKING ACTION

We are also making many changes that will prevent many of these abuses from happening in the future.

We are not limiting our campaign to abusive employers. Since our administration began in January, we have indicted five government officials for corruption relating to immigration and labor, including extortion and solicitation of bribes. One of them already has been convicted and two more face trial in the next few weeks.

These may seem like small numbers, but in our tiny Commonwealth they are a major breakthrough. In the past, there were cover-ups, both official and in the society at large. Instead, we have brought more of these indictments in eight months than the previous administration did in four years.

When reports of human rights abuses on Rota first surfaced, we took swift action. We sent a four-person Labor Task Force to Rota for a month-long investigation, which confirmed many cases of labor violations and abuses. Furthermore, the investigation confirmed that the Resident Director of Commerce and Labor, who was appointed by the Mayor of Rota under our Constitution, was a major part of the problem. As a result, we suspended this official from further involvement in the enforcement of our labor laws. I wanted to fire him outright, but the Mayor preempted the situation by using his own authority to appoint him to a different position. A further investigation into his activities is now pending and may lead to criminal charges.

Meanwhile, I have advised the mayors of Rota and Tinian that we have reserved enforcement of labor laws and regulations to the central Commonwealth Government in order to ensure constitutional due process for nonresident workers and uniform application of the law throughout the CNMI.

I recognize that the CNMI Attorney General's Office has not been very aggressive in prosecuting labor violations, at least in part due to the weakness of our local statutes. I have directed the Attorney General to increase the efforts of his office in this regard, and we have submitted legislation, H.B. 272, to overhaul completely our labor laws and put some teeth in them. Our bill will enhance our ability to prosecute the abusers and give statutory sanction to many of the reforms we are discussing here today.

Even earlier, in fact within days of taking office, we submitted a bill to the Legislature to raise the CNMI minimum wage to U.S. levels starting this January for garment workers and in January 1996 for everyone else.

Also, in the course of examining our labor situation, we found that some recipients of food stamps, SSI, or other subsidies were using their government payments to employ alien maids and other household workers. This has been stopped.

As part of a major government reorganization, we have established a new Department of Labor and Immigration where these matters can be dealt with in a single agency on a cohesive and integrated basis.

In June, we brought Mr. Leo LaMotte to the Commonwealth as temporary Public Auditor. I expect that he will help us ferret out corruption, develop financial controls, and improve the delivery of public services. Mr. LaMotte recently completed a distinguished career in the federal government, including service with the GAO and the A.I.D. Inspector General. I hope we will be able to get him confirmed as permanent Public Auditor in the near future.

We recently reached an understanding with the Philippine labor authorities for several procedural reforms by both governments that will assure that workers from that country will be qualified for their jobs in the Commonwealth and will be protected against unscrupulous recruiting agencies.

We have just set up a Marianas Liaison Office in Manila to deal primarily with labor matters and will establish a similar office in Hong Kong to deal with workers from the Chinese mainland. This initiative will allow us to deal with labor and immigration problems from both ends. Abusive employers will no longer be able to evade prosecution by forcing the worker to go home, since the Liaison Offices will be able to process complaints from workers even after they have left the Commonwealth. Better yet, by building safeguards into the relationship right from the start, the Liaison Offices will be able to prevent many of these abuses from happening in the first place.

We have had a few tragic cases in which the employers of nonresident workers and the surety companies who posted their bonds both went bankrupt. The workers were caught in limbo with no employer and no way home. We were able to find jobs for some of these workers. In other cases we paid for their repatriation. To avoid a recurrence, we have increased the depository requirements for the bonding companies to be sure that repatriation funds are available when needed.

We recently enacted into law the Immigration Enforcement Act of 1994, which imposes stronger penalties on those who violate our immigration laws. The previous law focused only on punishing aliens. The new law, which is based on federal statutes, imposes sanctions on employers of illegal aliens and other persons who help aliens violate the law.

I should mention that in the past several months we already have deported 65 aliens, nearly all of them former workers who overstayed their permits. Ironically, we could have deported even more had the Legislature appropriated sufficient funds for this purpose.

#### WE SEEK A PARTNERSHIP WITH THE FEDERAL GOVERNMENT TO IMPROVE ENFORCEMENT

We are working to resolve our immigration and labor problems. However, years of mismanagement and neglect do not vanish overnight. We need the knowledge and assistance of the Federal Government to reach a satisfactory standard of performance. We also need the Federal Government to increase its enforcement of federal laws in the Commonwealth.

As a matter of policy we do not want to request federal financial assistance to resolve these matters. I continue to believe that we need the local fiscal discipline imposed by having to pay for our government services ourselves.

However, we are very grateful to Senator Bennett Johnston for his proposal to reserve \$7 million of Covenant Funding for Fiscal Year 1995 for immigration, labor, and other law enforcement.

We will make good use of the money. We plan to use a portion of these funds to purchase state-of-the-art tracking systems, including arrival/departure and worker identification cards, fingerprint scanners for nonresident workers, and other modern equipment. We already have completed our research and determined what we

will need to get the job done right. If necessary, we will advance some of our own funds for this purpose.

The remainder of the money will be used to train our local investigation and enforcement officials and to provide funds for an increase in the federal law enforcement presence in the Commonwealth.

I was also disappointed to learn that the Commonwealth was left out of the recent crime bill. Like the states, we could have used funds from that legislation to leverage local resources for improving law enforcement, hiring more investigators, increasing drug interdiction, combatting prostitution, training public safety personnel, and constructing detention and correctional facilities.

We will also need the cooperation of the U.S. Immigration and Naturalization Service and other federal agencies to assure that we have on-line access to data bases of undesirable aliens, so we can keep them out of the Commonwealth.

I recently wrote INS Commissioner Doris Meissner and her field and program staff regarding technical support for integrating the varied components of the new system. Although we have not yet received a reply, I have every hope that we will be able to benefit from their expertise in these areas.

In a related area, we have had excellent cooperation from the State Department's Regional Passport Director, Ms. N.K. "Sam" Finn. I have invited her to come to Saipan at our expense to help us with personnel and procedural changes resulting from the reorganization and to provide additional training in passport functions.

Immigration is not the only area in which we want to work together with the Federal Government. Cooperation between the CNMI and the U.S. Department of Labor already has been very productive. Together we have managed to improve the living and working conditions of the garment workers. We will now take that same partnership and put it to work making similar improvements in other industries, including construction.

However, there still is much room for improving this cooperation. Unlike the government of Guam, which is a creation of the United States government, we are not authorized to enforce federal laws, nor should we be. We are having enough trouble just trying to enforce our own local labor laws and regulations. Therefore, I wrote the Secretary of Labor on March 1 to request that he open an office on Saipan to enforce federal labor laws in the Commonwealth and to train our local enforcement personnel.

Although Secretary Reich was very responsive in most respects, there is still no word on whether he will open a Saipan office. Certainly, the violations of federal labor laws that already have come to light suggest that there is enough work in the Commonwealth to keep one enforcement officer busy full time.

Whatever progress we have made in the garment industry could not have been possible without aggressive and highly publicized federal action. When federal officials enforce and prosecute federal laws, many problems tend to disappear and conditions improve greatly. If this is seen as a one-time shot, however, the problems will soon be with us again. We hope the Secretary will consider establishing a permanent presence in the Commonwealth in the very near future.

Similarly, we need our own U.S. Attorney. Right now, we have only a single assistant U.S. prosecutor, who is under the Guam office. This simply is not enough. We need our own U.S. Attorney's office, preferably with two or more prosecutors, so that attorneys assigned to enforce federal law in the CNMI are not pulled off their cases to handle Guam priorities. Our U.S. District Court needs its own U.S. Marshal. The FBI and DEA presence also needs to be increased.

Over six weeks ago, U.S. District Court Judge Alex R. Munson joined me in a letter to the President justifying the need for a U.S. Attorney and a U.S. Marshal dedicated to the Northern Mariana Islands and requesting such assignment. We expressed our concern at the many federal cases that have not been brought to court for lack of resources for adequate investigation and prosecution.

Assistant Secretary of the Interior Leslie Turner wrote in support to Assistant Attorney General Jo Ann Harris, head of the Justice Department's Criminal Division, asking to meet with departmental officials to discuss the need for a permanent U.S. Attorney and additional FBI and Drug Enforcement Administration personnel independent of the department's Guam operations.

I am extremely disappointed that I have received no response to my letter. The appointment of a U.S. Attorney and a U.S. Marshal for the Northern Mariana Islands is required by U.S. law (48 U.S.C. § 1694(b)(3)). Even the current U.S. Attorney told me personally that it would be better if the offices were separate.

If the Department of Justice is unable to muster sufficient resources to meet its present responsibilities under existing federal law, it could not possibly accept additional responsibilities with respect to CNMI immigration.

This goes for all federal enforcement agencies. In the states, their presence is taken for granted. Federal officials enforce federal laws. It's that simple. This makes state and local law enforcement much easier.

Many, and perhaps most, of the lurid labor abuses in the CNMI that fill the headlines are violations of both federal law and local law. Some are violations only of one or the other. The fact that they happen in the Northern Marianas is our shame, and any failure to enforce Commonwealth laws is our failure. However, the federal government, not the CNMI Government, must take responsibility for ending labor abuses that violate federal laws.

#### THE U.S. AND CNMI GOVERNMENTS MUST TOGETHER RESOLVE CITIZENSHIP ISSUES UNDER THE COVENANT

We admit that we have problems. Some of them are not of our own making.

On February 16, pursuant to Section 902 of the Covenant, I wrote President Clinton to request consultations on immigration and citizenship matters. The particular immigration problem, which involved the status of immediate relatives of U.S. citizens permanently residing in the Commonwealth, was resolved immediately, without the need for consultations.

On the other hand, a very important citizenship issue has been sidetracked. Section 303 of the Covenant extends U.S. citizenship to "All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States". The U.S. Immigration and Nationality Service has interpreted this to include newborn children of nonresident workers and of Micronesian parents resident in the Commonwealth pursuant to the Compact of Free Association or Trusteeship Agreement.

It is difficult to get exact numbers, but about three to four hundred children are born in the Commonwealth each year who can claim U.S. citizenship without a documented U.S. citizen or national parent.

This has had a negative effect on our socio-economic development, because many of these new citizens are receiving welfare and other benefits. Even worse, this subverts the original policy behind our local control of immigration.

The Covenant provides for local control over immigration to preserve and protect our fragile island culture against an uncontrolled influx of alien permanent residents. If the children of aliens become U.S. citizens merely by being born in the Commonwealth, then our islands will be transformed irrevocably within a generation.

I raised this issue in my letter to the President. Instead of appointing a special representative, as required by Section 902, the White House referred the matter to an inter-agency task force. Not surprisingly, the task force decided that the INS was properly interpreting the Covenant and that generally only children of accredited diplomats are denied U.S. citizenship under Section 303.

Although this is not what the people of the Marianas understood when they voted for the Covenant, we accept that the INS interpretation of the text probably is correct. That is why I asked for 902 consultations in the first place, to change the situation for the better, not to reaffirm it.

I believe that U.S. citizenship as a result of birth in the Commonwealth should be reserved to persons with at least one documented parent who is a U.S. citizen or national. Therefore, I expect the 902 representatives to come up with recommendations for amending the Covenant by mutual consent.

In response to a separate request for 902 consultations on a different issue, the President appointed Mr. Ed Cohen to be his special representative. I have the highest regard for Mr. Cohen, who brings a distinguished record of achievement to his new position. I hope that the President will extend Mr. Cohen's mandate to include immigration and citizenship issues or that a separate special representative will be appointed for such purpose at the earliest possible date.

#### THE U.S. AND CNMI GOVERNMENTS MUST RESOLVE ISSUES RELATED TO MICRONESIAN IMMIGRATION TO THE COMMONWEALTH

Citizenship under the Covenant is not the only immigration problem facing the two governments. The Commonwealth and the Federal Government also must come to grips with the adverse impact of unlimited immigration from the Freely Associated States under the Compacts of Free Association.

The Compacts with the Marshall Islands, the FSM, and Palau were negotiated after the Covenant, but we were not consulted about arrangements that affect us greatly.

As a result, although they are not U.S. citizens, Micronesians are allowed to enter and reside in the Commonwealth at will and exempt from local immigration control.

While we are not wealthy by U.S. standards, to most Micronesians we appear very attractive indeed. By and large, the Freely Associated States have lower standards of living than the Commonwealth . . . and most of them have larger populations than we do.

While we welcome our Micronesian cousins to our Commonwealth generally, we should not be expected to provide them with welfare and subsidized government services. We need to know what options we have under the Compacts to refuse entry to any Micronesian who cannot demonstrate that he or she is not likely to become a public charge and to deport indigent Micronesians to their home countries. We also should be able to bill their countries for their extraordinary expenses, such as medical referral.

This matter can also be handled under the existing 902 request for consultation on immigration and citizenship matters. If present Compact language makes it impossible for our two governments to resolve these matters ourselves in a satisfactory manner, we would expect assistance from the U.S. government in negotiating solutions with the Freely Associated States. We would also like to be consulted when the time comes for Compactrenewal negotiations.

A U.S. TAKEOVER OF LOCAL IMMIGRATION WOULD BE UNWISE, EXPENSIVE, AND COULD  
MAKE THE SITUATION EVEN WORSE

We are trying to bring a new level of maturity to our dealings with the federal government. We are acknowledging our problems, instead of denying that they exist. Part of that acknowledgment process is asking for help when we need it—help, not handouts and not imposed solutions. We need to work with the federal government to resolve these issues as partners, not as adversaries.

What we do not need now are federal sanctions or a federal takeover of immigration. That would only make the problems worse and would send the wrong signal at a time when we are finally starting to take responsibility and clean our own house.

We are in the process of overcoming a legacy of 50 years of dependency and avoidance of responsibility.

As the administrative center of the Trust Territory, the NMI benefitted from more progress, more modern touches, and more spending power than the other districts. However, our people were enticed out of the fields and out of the fishing boats and into desk jobs where they were taught that working for the government was the road to riches and that other people would do the dirty work.

Worse, we were inculcated with a welfare mentality. Uncle Sam paid the bills and cleaned up the messes, and we came to rely on that.

Our rapid economic development in the 1980's did little to change this underlying psychology. A few bold spirits went to work in the private sector, but most stayed close to a government that grew even faster than our booming economy. An endless supply of alien workers to do society's dirty jobs did little to promote social responsibility.

We must and will change the attitudes of two generations of our people.

However, alien labor is only one facet of the problem, and getting rid of alien labor is not the solution.

Our economy has outgrown the number of U.S. citizen bodies available. Given the location and natural beauty of our islands, the simple fact is that our economic potential will outstrip the ability of our population to support our development for the foreseeable future. Even if our entire population worked in the private sector at all kinds of jobs, we would still need nonresident workers for many years to come.

This situation is not unique to our islands. There are many examples throughout the world in which countries with excess labor export workers to countries with insufficient populations. The supplying country benefits from the remittances and from lower unemployment; the receiving country benefits from growth, lower costs, and greater competitiveness.

Some of these arrangements work better than others. Our challenge is to make our particular system work much better than it has in the past.

In the long run, most of our problems will be solved through better education and training of our people and their transfer to good, well-paying private sector jobs. Then we can reduce the size of government without massive unemployment, and we can reduce to the minimum our dependence on alien labor.

This is not easy, and there are no quick fixes. We have some strategies in mind as to how to move in that direction. The minimum wage increase, for example, will help reverse the migration of the best and brightest of our young people to the U.S. and elsewhere. We welcome additional ideas from all sources.



It is tempting to seek instant solutions. However, getting rid of our nonresident workers is not one of them. It would mean an end to our economic development. In fact, it would shrink our economy and result in the failure of local businesses that depend in part on their purchasing power. Many of our local residents who have made the move to entrepreneurship or private employment will become unemployed and convinced that their experiment in the private sector was a serious mistake. Local tax revenues will be reduced significantly, and the Commonwealth will return to stagnation and dependency on federal handouts.

I know that some senators and representatives are concerned that the indigenous people of the Marianas are becoming a minority on our own islands. Others are concerned that we are creating a large and permanent underclass. Although we appreciate their concern, the situation has been overstated. In any case, imposition of the Immigration and Nationality Act (the INA) will not help and may actually make matters worse.

From the perspective of geography and responsibility, we are in the best position to use the flexibility of local control over immigration to adjust admissions to the CNMI to our changing economic and cultural needs.

Even if we are outnumbered for the time being, at least we have the power to reduce the number of alien workers any time we wish. In the same way that we are willing to lease (but not sell) land to people who are not of Northern Mariana Islands descent, we do not feel culturally threatened by the temporary presence of relatively large numbers of nonresidents. If the U.S. were to take over our immigration, however, most of these people would likely receive green cards and wind up as U.S. citizens. Then our people would be a permanent minority and we ourselves could wind up being the underclass.

The INA would not appear to be a cure-all. It did not protect native Hawaiians from massive immigration from the Pacific Rim, nor from being an unhappy minority in their own islands. It has not prevented the establishment of an impoverished and resentful underclass in many major U.S. cities. It has not stopped abuse of factory workers in California and New York or of migrant workers throughout rural America. There are massive numbers of illegal aliens in the United States, despite federal control of immigration.

We don't have to look further than a few miles from this Capitol Building to find examples of Chinese laborers who were held in virtual slavery while they tried futilely to pay off an ever-increasing debt to those who brought them to the U.S.

All of this has happened despite the Immigration and Nationality Act and federal control of immigration.

In fact, in 1986, U.S. immigration laws had to be overhauled. Massive numbers of illegal immigrants were given amnesty, and employers were held responsible for illegal employment for the first time. After 210 years, the federal government still hadn't gotten it right. The NMI has been responsible for its own immigration for sixteen years and this team for only eight months.

The immigration and labor problems I face as governor are not significantly different from those faced by the governors of the 50 states. This does not excuse our mistakes, but it does put them into perspective. Our problems are just more concentrated and, thus, more noticeable. They are also under our control, so unlike the states, we must take full responsibility for their solution.

If we make mistakes in the area of immigration, we only have ourselves to blame. In the past, the benevolent but seductive Federal Government was always there to bail out the NMI whenever we failed or made a mistake. We never have had to take responsibility for our actions. It is about time we did so.

We have finally succeeded in making it okay for people to talk about these problems. Until recently there was something close to a conspiracy of silence. Now, most people in the CNMI are ashamed and angry that the actions of a few have given our islands a reputation as a place where human rights are not respected. Public opinion is beginning to change for the better.

If you force a solution upon us now, the resentment would be likely to reverse these new positive trends. Immigration reform will be something the Federal Government does to us, not something we do for ourselves because it is the right thing to do. The message will be clear: we don't have to take responsibility for change; once again, Uncle Sam will clean up our mess.

If you want us to take responsibility, you have to let us make some mistakes and then guide and assist us back on track. Otherwise it is no responsibility at all.

Clearly, we have made mistakes. In the future, I hope we will all be able to look back on today's hearing as a guidance session in which the Subcommittee has encouraged us to redouble our immigration and labor reform efforts and has encouraged the Federal Government to assist us in these worthy endeavors.

With increased assistance from the relevant federal agencies, and the other basic changes I have outlined, I believe we can together, in partnership, resolve the citizenship, immigration, and labor problems that face our Commonwealth.

Mr. Chairman, I promise you and the members of this committee that our administration will do everything in our power to end labor abuse in our islands and to exercise better control over immigration. Please give us the opportunity and assistance we need to make these reforms work.

Thank you.

Senator AKAKA. But before we do that, I would like to call on the chairman of the full Committee on Energy and Natural Resources for his statement.

**STATEMENT OF HON. J. BENNETT JOHNSTON, U.S. SENATOR  
FROM LOUISIANA**

The CHAIRMAN. Mr. Chairman, thank you very much, and thank you for your leadership in this area, for holding this hearing.

Governor Tenorio, I would like to welcome you to Washington.

Mr. Chairman, I have been a strong supporter of what Governor Tenorio has been trying to do in his new administration. We visited there, the committee did, on our trip in January.

We commended him for his speech to the legislature, and the outline which he presented for his plans. I think it is a good blueprint for the Northern Mariana Islands.

Now, I cannot at the same time stress too strongly that there have been big problems in immigration in the Mariana. They must be addressed. If they are not addressed, we will have to intervene. We will have to do so by introducing legislation to do that.

Now, there are two problems. First of all, the U.S. Department of Labor and American agencies have been woefully at fault. Excuse me for putting it this way, but we are going to raise hell if they do not do their jobs.

There are going to be some people who are going to be called to account and who are going to be—I mean they are just not doing their job, and they have to do their job. You need that help, and you cannot solve the problem of immigration without the help of the Department of Labor and without the help of American agencies. And that needs to be done.

Secondly, you have problems with the legislature. There is a split in your legislature. I do not know whether it is gridlock, or whether it is politics, or what it is, but your legislature has got to get on board, otherwise they are going to be issuing an invitation to us to intervene and to take over in the Northern Marianas, and we will have to do it.

I will introduce legislation, along with the other members of this committee—I mean either Northern Marianas does its part with the Department of Labor, or we have to intervene.

I think, Governor, that you are trying to do the right thing. I think that your program is one that will work. And I just urge the legislature to get together and work out its differences, because we have to solve these problems in the Northern Marianas.

As you know, I have a long history with the Northern Marianas. I went out there the first time 22 years ago, and I am a strong supporter of it.

I have supported the Covenant, the citizenship, all of those things, and I think we have achieved some significant successes there. But clearly these problems must now be solved.

They must be solved, and, Governor, you deserve the help of the United States and its agencies, and I suspect that there is going to be a change, because we are going to turn up the heat on that. You can be sure of that.

And really, your legislature, I hope, will get the message. I mean I would not want to be the member of the legislature that, in effect, issued an invitation to the Congress of the United States to intervene in my own island's affairs, you know, to have a Federal take-over.

That is the last thing we want to do. That ought to be the last thing that they would want. It takes a little fellowship of your leadership, a little unity, and I hope that they will do that, and I expect that they would.

So, Governor, welcome to Washington. We hope that this will be a very fruitful and constructive meeting for you. And we will offer all the help we can give you to solve this problem of immigration, as well as the other problems in the Northern Marianas. So thank you very much.

I am sorry I am not going to be able to stay for the rest of the meeting, because we have a conference committee on national defense, and we have some very important issues there that we are meeting on this morning. But I did want to welcome you and give my greetings to the Northern Marianas.

[The prepared statement of Senator Johnston follows:]

PREPARED STATEMENT OF HON. J. BENNETT JOHNSTON, U.S. SENATOR FROM  
LOUISIANA

Thank you Mr. Chairman. I'd like to welcome Governor Tenorio and the administration witnesses to today's hearing on immigration in the Commonwealth of the Northern Mariana Islands. I am pleased you have come to testify on what has become a serious problem in the islands. The number of non-resident aliens in the CNMI has grown. And this has presented both the CNMI government and the Federal government with a dilemma.

In response, after consulting with the Governor, I proposed to use up to \$7 million in this year's mandated funding to the CNMI to help track and identify alien workers. This money would be used to enforce applicable immigration and labor laws. After attending the interior appropriations conference yesterday, I am assured that this money will be allocated for these purposes. The necessary resources will be available to the Commonwealth, the Immigration and Naturalization Service, and to the Labor Department to ensure proper enforcement of these laws. I appreciate the Governor's assistance in this partnership we have established, and look forward to seeing results.

I cannot stress to you the importance of seeing concrete results. We have a Federal interest in seeing progress on these issues. Pressing concerns, including clean water and other essentials of life are not being provided to United States citizens, because of poorly thought out immigration and labor policies. Objectives are needed, such as sensible immigration policies to accommodate growth without overburdening the limited space and facilities that are available.

Since assuming office in January, Governor Tenorio has pushed for changes in the CNMI. His efforts are appreciated, and I am anxious to see reform. But he must have cooperation to accomplish reform. Let me urge you again to move quickly on the initiative outlined in the interior appropriations package. What is needed is action, not words. Not only from the Commonwealth, but from the agencies whose testimony we will receive here today. I would like to ask the agencies, through memoranda of understanding, to provide technical assistance to the Governor. By March 1st, the Governor and the agencies should report back to Congress on these efforts, providing an accounting for how this money was spent. I would also ask the agen-

cies to identify what resources you will need for this effort in the 1996 budget. Clearly, a one-time fix will not alleviate the problems in the CNMI. Work must continue.

This is a flexible program. But if at the end of six months there are no satisfactory results, the program could become inflexible. I remind you all that legislation was introduced this Congress to apply U.S. immigration laws to the CNMI. It would be preferable not to resort to this type of action, as we would like to be able to rely on the local government and the agencies as experts on the problem. But some action will be necessary if the situation does not improve.

Governor TENORIO. Thank you very much, Mr. Johnston.

Senator AKAKA. Thank you very much, Mr. Chairman, for your comments.

At this time I would like to call another friend and member of the committee, the Senator from Idaho, Mr. Craig.

#### STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Well, Mr. Chairman, first of all let me express my appreciation for you scheduling this subcommittee hearing.

It is late in the session, and it could have been ignored, but your interest and your dedication to the issues in this area of the world are well-known, and causing this subcommittee to meet and to deal with this issue is important.

Governor, welcome. Let me tell you that I, too, am concerned, along with the chairman, about the reports that we hear and the realities that appear to be behind those reports, from all kinds of abuses and working conditions, the holding of wages, living conditions, physical abuses, and other abuses of domestic workers.

From our examination, I can only echo what Chairman Johnston has said, and we will back him fully in his strong statement about the responsibility of the agencies of this government working with you in a cooperative manner to resolve the problems.

I am absolutely amazed that we could be adventurous in the Caribbean at this moment, spending vast amounts of money, when a small amount of money spent domestically on behalf of your interests in the Northern Mariana Islands would solve a lot of these problems. And I am talking about the enforcement of law, criminal law, not having to go out and create something new.

I understand the importance of the cooperation with your government and the legislature, and I think Chairman Johnston has expressed that very well.

But I also understand what this administration is not doing, and if the reports coming out of the Northern Marianas are bad, then it ought to be this administration that is getting the black eye, not you. You are working hard to try to resolve this.

Having said that, let me ask unanimous consent, Mr. Chairman, that the balance of my statement be a part of the record. We certainly welcome you. I will have some other questions, if I can stay longer.

We understand the importance of the issues and the problems you are facing. We want to be a part of helping you resolve that, and we will cause this administration to be a good deal more sensitive than they are.

Thank you. Thank you, Mr. Chairman.

Senator AKAKA. Thank you very much, Senator Craig. Your full statement will be made part of the record.

[The prepared statement of Senator Craig follows:]

PREPARED STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Mr. Chairman, I want to express my appreciation to you for scheduling this oversight hearing concerning the immigration situation in the Commonwealth of the Northern Mariana Islands. We are very late in this session of Congress, and it would have been easy to simply postpone any Subcommittee action, so you are to be commended for your willingness to devote Committee time to this troubling issue.

Like many people, I am concerned over the reports in the media and elsewhere alleging abuses of alien workers in the Northern Marianas. I have something of an advantage in that I worked with you when we were both in the House on territorial issues, so I can put some of these reports in perspective. Nonetheless, I am troubled by these reports. My concern is that each of the reported abuses—working conditions, withholding of wages, living conditions, physical and other abuses of domestic workers—all are violations of federal laws. If these reports are correct, we are facing a failure by federal agencies to enforce federal laws and prosecute violations. If that is true, I am extremely troubled by an Administration capable of committing vast amounts of resources in Haiti while it is unable to commit a modest amount domestically.

The Commonwealth of the Northern Mariana Islands (CNMI) was the first district of the Trust Territory of the Pacific Islands to resolve its future political status. As most of the audience here today knows, prior to World War II, Japan administered the Northern Marianas, together with the Marshall Islands and the Eastern and Western Caroline Islands, under a League of Nations Mandate. After World War II, the area was designated as a strategic trusteeship by the United Nations and the United States became the Administering Authority. Guam, the southernmost of the Mariana Islands, has been a territory of the United States since the Treaty of Paris which ended the Spanish-American War. That accident of history, separating the Chamorro peoples of the Marianas, was partially rectified when the residents of the Northern Marianas voted overwhelming in a United Nations observed plebiscite to become a United States territory under the sovereignty of the United States, and the Congress approved the Covenant for the Northern Marianas in 1976. That event marked the first acquisition of territory by the United States since the purchase of the Virgin Islands from Denmark. The commitment of the Northern Marianas to their decision was reflected in their insistence that the grant of citizenship could not be altered except by mutual consent—a provision that is not applicable in any other territory.

It has been almost twenty years since those events took place. Governor Tenorio is the fourth person to assume the responsibilities as the chief executive of the territory. The economic growth in the Northern Marianas has been phenomenal, far outstripping even the most optimistic projections of twenty years ago. That growth has in part been fueled by the control over immigration the United States permitted the Commonwealth to exercise. The massive levels of immigration—for construction, tourism, garment and textile industries, and as domestic help—has had a price. There are social costs in health, education, and other services. There are demands on an infrastructure designed to accommodate half the population now resident there. In twenty years the Commonwealth has gone from about 16,000 people to more than 70,000, not counting the tourists.

I am concerned the Commonwealth may have neither the training nor the capability of fully controlling the effects of this immigration influx. I am concerned that unless steps are taken to make the industries and sectors that rely on alien labor—including domestics—pay for the costs of their labor force, either the CNMI or the U.S. will have to foot the bill for deteriorating or inadequate infrastructure and health, education, and other social services. I am particularly troubled by reports of human rights abuses that should never be allowed to occur anywhere and especially not within the United States.

I understand the Department of Labor does not have even one person permanently assigned to the Northern Marianas. Given the number of press articles about conditions in the Northern Marianas, I find that appalling. I am not suggesting the press reports are accurate or inaccurate, but we would have a better answer if federal agencies with federal responsibilities had their personnel present.

I want to make it perfectly clear there are real concerns in Congress over the reports of worker treatment. I am not inclined to embrace the approach suggested by the House of cutting off funding for capital infrastructure. That approach is more

likely to result in cholera than reform. I do not think this Committee should require the CNMI to raise taxes, although I do think we should encourage the CNMI to make certain businesses and individuals who impose costs on the CNMI as a result of their employment of aliens produce the revenues to cover those costs.

I do think there needs to be a closer working relationship between the CNMI and U.S. immigration and customs. I think that is in the best interests of everyone. I would hope the CNMI would vigorously enforce its local laws on worker protection, prostitution, and in other areas. There is no question in my mind, however, that federal laws are applicable and must be enforced.

The CNMI must also fully understand there is no pot of gold here in Washington. We will be as helpful as we can and we will always be sympathetic, but we cannot underwrite the CNMI. The CNMI wanted and obtained self-government. Together with that authority came the responsibility of self-government. If the CNMI does not effectively exercise those responsibilities, it runs a real risk the federal government could intervene to protect the health, safety, and security of the residents. I do not want that to happen, but unless the CNMI can work cooperatively with the federal government to control immigration and worker protections, then that could very well happen.

On the federal side, I can see no justification if there are not adequate personnel from DEA, INS, Customs, Labor, and other federal agencies to ensure that United States laws and interests are fully protected. I would repeat, this Administration has committed us to a prolonged and expensive occupation of Haiti for some dubious reasons. There is absolutely no justification for the Administration to let the newest member of this Nation languish. If federal personnel are needed, then they should be provided.

Senator AKAKA. Governor Tenorio, I want to thank you very much for your statement, which I know it was very difficult for you to make. I also want to welcome you back to Washington, D.C. I have known you in the past when you served CNMI here well several years ago. And so I welcome you back as Governor.

Congress strongly supports your new initiatives that you proposed regarding tougher immigration laws, minimum wage standards, and tax reform.

However, these new initiatives depend on passage by the CNMI legislature. Chairman Johnston has strongly voiced his feelings about the legislature and its part in this so-called partnership.

As you have noted, one of the biggest challenges the CNMI faces is strengthening control at the borders. Aside for the excellent suggestions you have made in your testimony for improved equipment, training of your officers, are there other steps the Federal Government, particularly INS and Customs, could take to provide assistance to you?

You mentioned that you seek the need and cooperation of the Immigration and Naturalization Service in identifying whether there are persons that the U.S. Government considers "undesirable" who seek to enter the NMI.

Another popular question is whether you have raised this with INS, and whether you would be willing to adopt a mirror policy, whereby you would exclude those identified as desirable as a matter of policy.

So let me stop there on this first question and ask you for your response.

Governor TENORIO. Thank you, Mr. Chairman. In our written testimony, Mr. Chairman, we mentioned that we hope that we could get data base information from Immigration so we could identify the undesirable aliens at the port of entry, so we can stop them there.

At the present time, we lack, as you mentioned, the equipment for that, but we hope that we can use some of that \$7 million that

Senator Johnston is getting for us to use for that purpose. And, in fact, at this time some of our people are already looking into this. We are ready to acquire the equipment that we need.

I would also like to mention that, as I said, and I have included in the attachments, letters to this affect. I have asked the Federal agencies since a long time ago to come over and help us with our problems.

I asked the Secretary of Labor, Mr. Robert Reich, some time ago to open an office on Saipan. This is also true with the Department of Justice. We need the persons of the Federal Government in the Commonwealth. To me, just the mere presence will, I think, reduce the number of abuses that are taking place over there.

In the meantime, I understand also that the Federal Government is now in the process of, after all these months of investigation, they are ready to take some cases to grand juries, and, hopefully, with that, we will show to you that we have been doing something in the Commonwealth about our labor and immigration problems.

Senator AKAKA. Like you, Governor Tenorio, I believe it was a mistake that the NMI and other U.S. territories receive so little assistance under the crime bill recently signed by the President.

And you mentioned this in your statement. If we were to make additional assistance available to NMI next year for crime prevention, enforcement, and other activities, what would your highest priorities be, and how would you structure such a program, requiring matching funds grants, to assure that it is, indeed, a partnership. Would you support reserving covenant funds for this partnership?

Governor TENORIO. Mr. Chairman, I would like to think that if we get this \$7 million in fiscal year 1995, that that would be sufficient for us to take care of these problems once and for all.

Frankly, I do not feel the need for the U.S. Congress to amend the crime bill to include the CNMI. As I said earlier, I feel that this is our problem, and, therefore, we should pay for the cost of taking care of these problems. The \$7 million would be more than sufficient to take care of these problems.

I do not like to put all the blame on the Federal Government, because, as I have mentioned, we have submitted legislation to overhaul our labor laws. With the approval of that bill, I feel that locally we can prevent any more abuses or we can prosecute violators of labor abuses in the Commonwealth.

All I am asking right now is just to give us maybe another year. I can guarantee, Mr. Chairman, that within a year we will reduce the abuses in the Commonwealth, if not completely eliminate it.

Senator AKAKA. I am most impressed by your eloquent, and I must say politically courageous position, that the NMI must not look to the Federal Government to solve its problems financially or otherwise.

At the same time, I recognize that the Federal Government does have some responsibility to help provide resources and encourage and assist the CNMI. I should tell you at this point, Governor, that yesterday the Interior people met, and an amount of up to \$7 million, let me put it this way, is virtually assured at this time.

This is good news to you, Governor, and to your administration. I wanted you to know that.

As we structure the program, we hope we will be on the way this year. With respect to assistance in immigration and labor, do you have recommendations as to how we could make this more of a partnership?

Governor TENORIO. Mr. Chairman, I feel that if we have this \$7 million that we can use that money to pay for the expenses of Federal officials to move to the CNMI.

I am aware that you are having problems here also for Federal agencies. So we are willing to use part of that money to pay for the expenses of Federal agencies to assign their officials to the Commonwealth.

I have always been a supporter, as I said, of a Federal presence in the Commonwealth. I think what we need is a partnership with the Federal Government. And, frankly, at this time I just do not know what other measures we need to take.

I would hope that once the agencies have decide to come, and, in fact, I think several of them are coming within the next month, that we can get together and determine how we can go about carrying out the partnership between the Commonwealth and the United States.

Senator AKAKA. In light of that, Governor, let me ask you whether we should require a local match, for example, and if so, what should that be?

Governor TENORIO. I am in favor of matching funds, Mr. Chairman, but as I said earlier, we are not asking, for example, for the Federal crime bill to be amended.

Now, if you are saying that we should match the \$7 million that we are getting under the government funding, match it with our own money, then, of course, that is up to you to decide. I always believe that the local governments, the territories should pay for some of the cost of the benefits that we get.

What we need in CNMI, Mr. Chairman, is money for training of our own enforcement officials, and I would like, for example, to have more police officers, and, of course, definitely more immigration officials, as well as labor officials. So this is where we can also use the funds that we are getting from this \$7 million.

Senator AKAKA. Governor, I am also concerned about the lack of response you have received from several Federal agencies for additional personnel to enforce Federal laws. Representatives from some of these agencies will be testifying later this morning.

Perhaps they will commit to a date certain for a reply. If not, would you support earmarking or reserving covenant funds next year to finance the positions you seek then to fill?

Governor TENORIO. Yes, sir. Definitely. Mr. Chairman, I am also looking forward to the testimonies of the Federal officials this morning, because I often wonder whether the Federal Government officials are aware that in this instance we are a little bit different from the other territories, from Guam, for example, in that Guam the Governor is delegated the authority to enforce Federal roles in Guam as they apply in Guam.

We do not have that under the Covenant. I do not have that authority, and, therefore, it is very clear that the enforcement of Federal laws in the Commonwealth is the responsibility of the Federal agencies.



I hope that they realize that. If this is not true, then I want them to tell us this morning that it is not so, because I have been under the impression that we do not have the authority to enforce Federal laws over there.

As I said in my testimony, many of the problems could have been prevented and could have been prosecuted, the violators, or these abusers could have been prosecuted under a Federal statute.

It is for this reason that we have submitted a bill to overhaul our labor laws, because we have found out that our labor laws are not strong enough for us to convict the violators of these crimes.

But I am hoping that they could be prosecuted under Federal laws, and that is why I am also looking forward to hearing the Federal agency official's testimony this morning.

Senator AKAKA. I believe, Governor, you have recommended an excellent change in the citizenship for children born in CNMI. And I agree that 902 consultations on this issue are appropriate.

Are there ways this committee can try to help you get passage of a bill which would make the appropriate steps towards a change contingent upon CNMI concurrence?

Governor TENORIO. Mr. Chairman, to be honest, I do not know how to respond to that one, because, as you know, this is a mutual consent provision of the Covenant. Of course, the argument has been put forth that in the past the Congress technically can amend any provision of the Covenant.

I am hoping, however, since I have already appointed a special representative and the President has also appointed Mr. Ed Cohen as his representative, that the special representatives will discuss this matter and come up with a recommended language.

In the end, the Congress will be involved, because this provision, in checking the Covenant, will have to come and be approved by the U.S. Congress anyway.

Senator AKAKA. Do you currently have adequate facilities which meet applicable constitutional standards for detaining foreign workers or other aliens who overstayed their visas, or otherwise are in violation of CNMI law?

Governor TENORIO. No, sir. I have to say that we do not have facilities that meet the Federal standards. On the other hand, I want you to know that I have been looking for funds. Maybe we can borrow from some financial sources, so we can put up these facilities as well as other correctional facilities.

We need to address this issue, Mr. Chairman. I understand that under the crime bill the states would be getting funds for this purpose.

But at this time, I would like very much if we could just do it ourselves. Again, I do not like to ask you to amend the crime bill to address this issue.

Senator AKAKA. I am concerned, Governor, about your statement that one of the major problems we have had in deporting foreign workers or other aliens who have violated their visas or local laws is a lack of funds.

Are there steps this committee can or should take to encourage your legislature to make additional funds available to you for this purpose? Should we, for example, continue local control of immigra-

tion contingent upon a showing that sufficient funds for this purpose are available?

Governor TENORIO. Mr. Chairman, we have included in our fiscal year 1995 budget the money for this purpose. Unfortunately, until the legislature approved our tax reforms, they cannot approve the budget, because the tax bill will determine how much revenues we are going to have in the next fiscal year.

I hate to say it, but before I left I was informed that the House of Representatives was ready to approve a tax bill that would have generated additional money for us the next fiscal year sometime this week. At this time I understand that the bill was never approved.

I would like to say at this time that we have with us this morning several members of the Senate who have been helping in our efforts on the tax bill, the public bill, as well as the minimum wage bills, Mr. Chairman.

We need help. We need help with the House of Representatives. It just seems like dealing with them can move them to approve our tax bill and our budget. But I want you to know that the money for this purpose will be in the fiscal year 1995 budget.

Senator AKAKA. We, as a matter of procedure, Governor, would not amend the crime bill to address the CNMI crisis. Rather, we would like to see Federal response to enforcement requirements. We hope to set this in motion today, as a result of this hearing.

I have other questions for you, Governor, but I will submit further questions in writing. And we will continue with our other witnesses, but I ask you to remain, and, hopefully, in case there are questions, we might be able to get back to you.

I look forward to the statements from the Federal officials here, and hope that they will respond to some of your concerns you mentioned in your statement.

I want to place your whole statement in the record.

Governor TENORIO. Thank you, Mr. Chairman, and thank you very much for giving us this opportunity to be here with you this morning.

Senator AKAKA. Thank you very much, Governor.

I would like to call the next panel, Allen Stayman, Acting Assistant, Office for Territorial and International Affairs, Department of the Interior; Paul Virtue, U.S. Immigration and Naturalization Service, Department of Justice; John R. Fraser, Deputy Administrator, Employment Standards Administration, Department of Labor.

Welcome, gentlemen. I look forward to your statements.

May I ask Allen Stayman to proceed?

**STATEMENT OF ALLEN P. STAYMAN, ACTING ASSISTANT SECRETARY, TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR**

Mr. STAYMAN. Thank you very much, Mr. Chairman.

It is an honor and a pleasure to be seated at this table again. While my perspective as an administration witness is quite different from when I sat here as a staff member of the committee, one fact has not changed is the continuing and widespread concern regarding the negative impact of the immigration policies of the

government of the Commonwealth of the Northern Mariana Islands.

You are all familiar with the explosive growth in the residential population of the CNMI, from approximately 18,000 to nearly 60,000, since 1980.

With this growth has come pervasive problems in housing, health care, education, sewer water, and electricity. There are also extensive law enforcement problems, and of great concern, a pattern of labor abuse and discrimination against non-U.S.-citizen residents.

The Commonwealth of the Northern Mariana Islands is developing in ways that were never foreseen by the framers of the Covenant.

The trend in the CNMI toward a society of two classes, U.S.-citizen residents, supported by the labors of guest workers whose rights and welfare are not being protected, is unacceptable and cannot continue.

When the Covenant establishing political union between the United States and the Commonwealth of the Northern Mariana Islands was considered by this committee and Congress nearly 20 years ago, one provision that received exhaustive consideration was immigration.

The intent of the Congress and the CNMI under the Covenant was the protection of the integrity of the indigenous community. The responsibility for this protection was eagerly assumed by the CNMI government, but that government is fast failing in its task.

In addition, its failure to control immigration is now undermining Federal programs and policies, including first, infrastructure. CNMI infrastructure needs would be modest but for the influx of non-U.S.-citizen residents who use the roads, hospitals, docks, airports, dumps, water, power, and sewer facilities, and whose children will soon be entering the school system in large numbers.

The infrastructure issues could be regarded as a local responsibility, but local revenues have not kept pace with infrastructure needs, leaving the Federal Government in an awkward position.

Should disease break out due to an inadequate sewer system, for example, the Federal Government would likely be called to task.

The second one are children of non-U.S.-citizen residents. Federal and CNMI negotiators assumed that CNMI officials would be vigilant in limiting immigration.

They did not foresee the birth of more than 3,000 U.S.-citizen children to non-U.S.-citizen residents. The Federal Government shares with the local government the obligation to educate and provide health care for these children.

The third is enforcement of Federal laws. As the population has dramatically increased, so have the incidence of crime. The rise in crime has overwhelmed local law enforcement capabilities and is threatening to overwhelm the Federal presence.

No. 4 is identification and tracking of non-citizens. The problems associated with large number of non-U.S.-citizen residents are compounded by the failure of the CNMI to maintain an adequate identification and tracking system.

Since Federal immigration law was not extended to the CNMI, foreign persons that may be national security or law enforcement

risks to the United States cannot currently be identified and deported by the Federal Government.

Overstaying foreign visitors and guest workers should be identified and deported. This would lower costs for both the local and Federal Governments.

The fifth is trade policy. General note 3(a)(iv) of the Harmonized Tariff Schedule allows the duty-free importation into the U.S. customs territory of goods produced in the U.S. territories when certain requirements are met.

This process normally functions to enhance the employment opportunities for U.S. citizen residents. As immigration and minimum-wage policies are administered by the CNMI, however, few U.S. citizens benefit from employment General Note 3(a)(iv) businesses.

Several Federal agencies have been struggling to keep pace with the rapidly problems resulting from the CNMI's immigration and labor policies, and their representatives will outline their programs and efforts after my statement.

The significant impact of the CNMI's immigration policies on legitimate Federal interests also demands Federal action. This action, however, must be measured and considered so as to avoid unintended consequences, and be undertaken only as a last resort, should local reforms fail.

Accordingly, the administration is undertaking a two-tiered approach, combining both short-term actions with the development of longer-term recommendations.

Success in dealing with the negative impacts of immigration requires a commitment by both the local and Federal Governments.

Governor Tenorio, we believe, is on the right track with his minimum wage, labor, and immigration legislation. His, or similar proposals that may be developed with the legislature, must be implemented.

If there is no enactment within the next six months, then further action will be necessary by the Federal Government to ensure that Federal concerns and interests are met.

Over the next 6 months, as we await meaningful action by the CNMI legislature, Federal agencies will be engaged in the following: First, an interagency working group, already established among the agencies represented here today, will more closely coordinate Federal activities and the use of existing appropriations earmarked for immigration and labor reform, including the \$7 million, which is now in conference.

And it will also consider further actions that may be needed to assure that Federal interests are met.

Second, a memorandum of agreement will be developed between Federal agencies and the CNMI to coordinate Federal financial and technical assistance.

Our top priorities include: (1) the establishment of a joint tracking system of non-U.S. citizens, to make sure that the system developed meets both local and Federal needs; (2) an increase in Federal investigative and law enforcement personnel in the CNMI; (3) an increase in Department of Labor assistance to the CNMI labor officials for training and enforcement; and (4) a study of local detention and prison requirements.

In addition to these short-term actions, we propose to submit to the Congress by March 15, 1995, recommendations on what further actions, including legislation, may be necessary to meet Federal interests and concerns.

Options and alternatives that the working group is currently considering include, but is not limited to: (1) the acceleration of application of Federal minimum wage and coverage principles to the Northern Mariana Islands; (2) the application of the U.S. immigration laws or some variation thereof; (3) the proposal of the Governor for a moratorium on immigration into the CNMI based on 1992 levels of non-U.S.-citizen residents; (4) the authority of the Federal Government to deport persons who represent a national security or law enforcement risk to the United States; (5) application of the Mann Act to transportation within the Commonwealth; (6) the request of the Governor regarding the citizenship status of the children of non-U.S.-citizen residents; (7) rules regarding duty-free goods made by non-U.S. citizens; and (8) changes in the level and allocation of infrastructure funds made available under Covenant section 702.

I wish to make it clear that the Department of the Interior believes strongly in the insular areas' exercise of local self-government.

We prefer local solutions. Thus, the options which I have just referred to, which the interagency working group will consider, will be the subject of recommendations only if local reforms fail to be enacted or ineffective in addressing Federal interests.

We believe that this two-tier approach is the appropriate way to develop a meaningful, yet considered an incremental response to the problems in the CNMI. That concludes the summary of my statement. I ask that the entire statement be put in the record.

Senator AKAKA. Without objection, your entire statement will be placed in the record. We will follow with questions after we hear the other two witnesses.

[The prepared statement of Mr. Stayman follows:]

PREPARED STATEMENT OF ALLEN P. STAYMAN, ACTING ASSISTANT SECRETARY,  
TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman, and members of the Subcommittee on Mineral Resources Development and Production, it is an honor and a pleasure to be seated at this table again. While my perspective as an Administration witness is quite different from when I sat here as a staff member of the Energy and Natural Resources Committee, one fact that has not changed, is the continuing and widespread concern regarding the negative impact of the immigration policies of the government of the Commonwealth of the Northern Mariana Islands (CNMI).

You are all familiar with the explosive growth in the residential population of the CNMI, from approximately 18,000 to nearly 63,000, since 1980. With this growth have come pervasive problems in housing, health care, education, and meeting capital infrastructure needs. There are also extensive law enforcement problems, and of great concern, a pattern of labor abuse and discrimination against non-United States-citizen residents.

The Commonwealth of the Northern Mariana Islands is developing in ways that were never foreseen by the framers of the Covenant. The trend in the CNMI toward a society of two classes—United States citizens residents supported by the labors of guest workers whose rights and welfare are not being protected—is unacceptable and cannot continue.

When the Covenant establishing political union between the United States and the Commonwealth of the Northern Mariana Islands was considered by this Committee and Congress nearly twenty years ago, one provision that received exhaustive consideration was immigration. The negotiators for the Northern Mariana Is-

lands feared that large numbers of immigrants from the region would prefer the CNMI to the United States mainland. The negotiators, therefore, requested and were granted local control over immigration.

#### SIGNIFICANT FEDERAL INTERESTS

The intent of the Congress and the CNMI under the Covenant was protection of the integrity of the indigenous community. The responsibility for this protection was eagerly assumed by the CNMI government. But, in its pursuit of vigorous economic growth, the CNMI government is fast failing at its task. In addition, its failure to control immigration is now undermining federal programs and policies in the CNMI. These federal interests include:

(1) Infrastructure. The federal government was committed under Covenant section 702 to one seven-year period of capital infrastructure funding, beginning in 1979. Coincident with large-scale immigration, and fifteen years later, the federal government is still funding CNMI infrastructure. CNMI infrastructure needs would be more modest but for the influx of non-United States-citizen residents who use roads, hospitals, docks, airports, dumps, and water, power, and sewer facilities, and whose children will soon enter the school system in large numbers. The infrastructure issue could be regarded as a local responsibility, but local revenues have not kept pace with infrastructure needs, leaving the federal government in an awkward position. Should disease break out due to an inadequate sewer system, for example, the federal government would likely be called to task.

(2) Children of non-U.S.-citizen residents. Federal (and Northern Marianas) negotiators assumed that CNMI officials would be vigilant in limiting immigration. They did not foresee the birth of more than 3,000 United States-citizen children to non-United States-citizen residents, with the prospect of many more in the future. The federal government shares in the local obligation to educate and provide health care for these children. One consideration is the potential impact of these children, and in less than two decades, their parents and siblings, on the social and political identity of the CNMI.

(3) Enforcement of Federal Laws. As the population has dramatically increased, so have the incidents of crime. The rise in crime has overwhelmed local law enforcement capabilities and is threatening to overwhelm the federal presence. Labor abuse cases were the first wide-scale federal law enforcement problems encountered as a result of large-scale importation of foreign workers. The greater the population, the greater the need for effective labor law enforcement. In addition, increasing white-collar crime and drug trafficking suggest the need for a greater federal law enforcement presence. As with the issue of infrastructure resources, federal negotiators did not intend that the Covenant put the federal government in this position.

(4) Identification and Tracking of Non-citizens. The problems associated with large numbers of non-United States-citizen residents are compounded by the failure of the CNMI to maintain an adequate identification and tracking system. Since federal immigration law was not extended to the CNMI, foreign persons that may be national security or law enforcement risks to the United States cannot currently be identified and deported by the Federal government. Overstaying foreign visitors and guest workers should be identified and deported, which would lower costs for both the local and federal governments.

(5) Trade Policy. General note 3(a)(iv) of the Harmonized Tariff Schedule allows the duty-free importation into the United States customs territory of goods produced in United States territories when certain requirements are met. This process normally functions—as it did and does on Guam—to enhance the employment opportunities for United States citizen residents. As immigration and minimum wage policies are administered by the CNMI, however, few United States citizens benefit from employment in General note 3(a)(iv) businesses. Instead, these businesses primarily provide employment to non-United States-citizen guest workers in the CNMI. At present, the CNMI government does not recover the costs of services and capital facilities it provides to non-United States-citizens residents.

#### FEDERAL EFFORTS

Several federal agencies have been struggling to keep pace with the rapidly growing problems resulting from the CNMI's immigration and labor policies, and their representatives will outline their programs and efforts after my statement.

The Department of the Interior has been long concerned with immigration and labor policies, and therefore proposed and funded a cost/benefit study of the presence of non-United States-citizens in the CNMI. It was our desire that issues involving foreign visitors and guest workers be addressed in a comprehensive and

thoughtful way, with an emphasis on determining whether foreign visitors and guest workers benefit the Commonwealth.

While statistics need to be updated and verified, the study's preliminary findings and recommendations are significant:

(1) CNMI population rose from 17,900 in 1980 to 62,800 in 1993 with indigenous residents falling from 66.6 percent to 36.5 percent of the population—non-resident aliens, most of whom are legally admitted, now account for 58.8 percent of the population.

(2) The presence of non-United States-citizen residents in the Commonwealth costs the Commonwealth treasury money.

(3) Over 3,000 children have been born in the CNMI, to date, who have a foreign person as a parent—these children are United States citizens who will be able to sponsor their parents and siblings into the CNMI upon reaching the age of twenty-one. Moreover, additional schools and school operating funds will be necessary to support these and future children of foreign workers who will soon enter school.

(4) Additional capital infrastructure is necessary to support the presence of foreign guests and workers. If not built, the cost may be staggering for the health of all residents and the economy.

(5) The widespread use of foreign workers at low wages distorts the economy—United States-citizen residents are not attracted to sub-United States-minimum-wage private sector employment.

(6) Development must pay its own way through increases in revenues to cover the government's additional costs of services and capital facilities, including possible fees on the importation of foreign workers or taxation. This revenue problem is more than a simple deficit. It is better described as a structural imbalance with the economy.

The study highlights issues that must be addressed if the Commonwealth of the Northern Mariana Islands is to fulfill the promise it had for its people when the Covenant was signed in 1975.

#### LOCAL EFFORTS

In the short time since taking office in January, Governor Froilan Tenorio has recognized the problems created by local immigration and labor policies. He has a list of accomplishments and proposals in response to these problems. Among his accomplishments are:

- the arrest of a CNMI labor investigator for felony theft relating to payments by employers to settle labor complaints,
- the suspension of the authority of the Rota Resident Director of Commerce and Labor "in order to fairly, impartially and objectively execute" CNMI labor laws and regulations,
- the signature into law of the CNMI Immigration Enforcement Act of 1994, imposing stronger penalties on violators,
- completion of the CNMI government reorganization, which abolished the old Department of Commerce and Labor, which had competing goals, and replacing it with two separate departments: the Department of Labor and Immigration, and the Department of Commerce,
- the establishment of the Governor's Rota Labor Task Force, which determined that labor abuse cases on Rota were resolved to the benefit of employers,
- CNMI government takeover of enforcement of CNMI labor laws from the Mayors of Rota and Tinian,
- the signature of a new agreement with the Philippine government to screen Philippine workers heading for the Commonwealth to assure the proper skills and documentation, and
- the proposed Commonwealth Fair Labor Standards Act.

Besides these accomplishments, Governor Tenorio proposes far-reaching changes in Commonwealth policy that could, if implemented in timely fashion, have significant effects on controlling the negative impacts of immigration. These include:

- raising the CNMI minimum wage to the \$4.25 federal level for most industries over the next two years instead of waiting until the year 2000 as is currently provided under CNMI law,
- a moratorium on immigration at 1992 levels, and
- tax reform.

The Governor's actions and proposals are designed to stem labor abuse, reform the wage structure to entice local United States citizens into private sector employment and thus reduce the need for guest workers, and raise revenue to pay for infrastructure necessary to support the foreign visitor and guest worker population.

We strongly urge the CNMI legislature to work with the Governor to enact these or other acceptable reforms within the next six months.

#### ACTION

The significant impact of the CNMI's immigration policies on legitimate federal interests also demands federal action. This action, however, must be measured and considered, so as to avoid unintended consequences, and be undertaken only as a last resort should local reforms fail. Accordingly, the Administration is undertaking a two-tiered approach, combining both short-term actions with the development of long-term recommendations.

Success in dealing with the negative impacts of immigration requires a commitment by both the CNMI and federal governments. Governor Tenorio is on the right track with his minimum wage, labor, and immigration legislation. His, or similar proposals that may be developed with the legislature require implementation. If there is no enactment within the next six months, then further action will be necessary at the federal level to assure that federal concerns and interests are met.

#### *Short-term*

Over the next six months, as we await meaningful action by the CNMI legislature, federal agencies will be engaged in the following:

An interagency working group, already established among the agencies represented here today, will more closely coordinate federal activities and the use of existing appropriations earmarked for immigration and labor reform, including the \$7 million now in conference, and will consider further actions that may be needed to assure that federal interests are met.

Memoranda of agreement will be developed between federal agencies and the CNMI to coordinate Federal financial and technical assistance, should it be designated in the fiscal year 1995 appropriations act. Our top priorities include: (1) the establishment of a joint tracking system of non-United States citizens to make sure that the system developed meets both local and federal needs, (2) an increase in federal investigative and law enforcement staffing, (3) an increase Department of Labor assistance to CNMI labor officials for training and enforcement, and (4) a study of local detention and prison needs.

#### *Long-term*

In addition to these short-term actions, we propose to submit to the Congress, by March 15, 1995, recommendations on what further actions, including legislation, may be necessary to meet federal interests and concerns. Options and alternatives that the working group is considering include, but are not limited to:

(1) The acceleration of application of the federal minimum wage and coverage principles to the CNMI,

(2) The application of United States immigration laws or some variation thereof,

(3) The proposal of the Governor for a moratorium on immigration into the CNMI based on 1992 levels of non United States-citizen residents,

(4) The authority for the federal government to deport persons who represent a national security or law enforcement risk to the United States,

(5) Application of the Mann Act to transportation within the Commonwealth,

(6) The request of the Governor regarding the citizenship status of the children of non-United States-citizen residents,

(7) Rules regarding duty-free goods made by non-United States-citizens, and

(8) Changes in the level and allocation of infrastructure funds made available under Covenant section 702.

I wish to make it very clear that the Department of the Interior believes strongly in the insular areas exercise of self-government. We prefer local solutions. Thus, the options to which I just referred that the interagency working group will consider would be the subject of recommendations only if local reforms fail to be enacted or are ineffective in addressing significant federal interests. We believe that the Administration's two-tiered approach is the appropriate way to develop a meaningful, yet considered and incremental response to the problems in the CNMI—we wish to avoid unintended economic consequences.

We look forward to continuing to work with the Congress and the CNMI, using this initial self-government approach for bringing solutions to the immigration problems in the Commonwealth of the Northern Mariana Islands.

Senator AKAKA. At this time I would like to call on Paul Virtue, from the U.S. Immigration and Naturalization Service.



**STATEMENT OF PAUL VIRTUE, DEPUTY GENERAL COUNSEL,  
U.S. IMMIGRATION AND NATURALIZATION SERVICE**

Mr. VIRTUE. Good morning, Mr. Chairman. I appreciate the opportunity to appear before you today to express the views of the Immigration and Naturalization Service on immigration issues in the Commonwealth of the Northern Mariana Islands.

We are concerned with these matters for two principal reasons: our commitment to work with the Commonwealth in enforcing its own immigration laws and regulations, and our concern that lax enforcement in the Northern Mariana Islands could create immigration enforcement problems in the States.

We are also concerned by the mistreatment of the alien labor force in the Commonwealth both in and out of the work place.

We join with the other agencies of the Federal Government represented here this morning in a pledge to work together, and to work with the government of the Commonwealth to resolve these problems.

My brief statement this morning will address three major issues: the current commitment of INS to assist the Commonwealth in specific areas of immigration-related enforcement; the current relationship between the United States and the Commonwealth of the Northern Mariana Islands immigration laws; and third, the prospect of an increased role for Federal immigration law within the Commonwealth.

The INS fully supports the proposal to provide technical and other assistance to the Commonwealth to help track and identify alien workers entering the Northern Mariana Islands, and to enforce applicable immigration laws in the Commonwealth.

Specifically, we stand ready to help the Commonwealth develop a computer data base and identification system for aliens present in and entering the Northern Mariana Islands, including a permanent record of the country of origin.

In fact, as we have stated in the statement for the record, for the past several months our Office of Information Resources Management has been providing information to the Governor's office regarding the Commonwealth's need for a more secure alien identification system, and the governor acknowledged that support in an August 17 letter to our commissioner.

In response to that letter, we plan to commit further technical assistance to assist the CNMI in upgrading its immigration electronic data base, and installing a comprehensive computer network.

In addition, the INS Office of Detention and Deportation can also assist the Commonwealth in developing requirements for their planned immigration detention facility that we have spoken about here this morning.

As we consider strengthening the ties between the INS and immigration officers in the Commonwealth, we should keep in mind the current relationship between the United States and Commonwealth immigration laws.

As you know, Mr. Chairman, very little of the Immigration Nationality Act currently applies to the CNMI. The framers of the Covenant excluded the Commonwealth from U.S. immigration laws in order to give greater local control over immigration policy, and

to limit immigration to an extent it would not be possible under the Immigration Nationality Act, unless the Commonwealth was given full authority to enact and enforce laws concerning the entry and stay of non-U.S. citizens.

There are currently no statutory provisions for entry of non-U.S. citizens into the Commonwealth for permanent residents, other than immediate relatives of U.S. citizens.

Nevertheless, the years since the Covenant have seen a substantial increase in alien temporary worker population, to the point that the indigenous population is now outnumbered by a factor of two to one.

We understand that this influx of temporary workers has fueled the growth of the construction, garment, and tourist industries in the Commonwealth.

On the other hand, this population growth has severely tested local social services and is expected to present an even greater problem in the future, when children born in the Commonwealth to the alien population reach school age.

In response to this situation, some have suggested the imposition of U.S. immigration laws upon the Commonwealth. Before this step is considered, however, the consequences should be carefully examined.

The application of the Immigration Nationality Act could prove problematic for indigenous island populations. Many provisions of the Immigration and Nationality Act would permit greater and more permanent immigration to the Commonwealth of the Northern Mariana Islands.

The application of the Immigration Nationality Act could also be disruptive to the employers and the industries that have drawn temporary workers to the Commonwealth.

The staff occupations currently being filled by such persons in hotels, restaurants, factories, and in construction in the Commonwealth are most often not temporary in nature. Thus, petitions would not be approved to classify non-immigrant workers for such positions, even though indigenous or domestic workers may not be available to fill those slots.

The impact of the Immigration Nationality Act on the tens of thousands of workers already in the Commonwealth must also be considered. Without some remedial legislation, such aliens would be amenable to deportation, and continued employment of them in virtually any capacity would be unlawful.

I wish to emphasize, Mr. Chairman, that the INS is not expressing opposition to the application of all or part of the Immigration and Nationality Act to the Commonwealth.

The Department of Justice and the INS have not taken a formal position on that issue, and as Mr. Stayman mentioned in his remarks, the interagency working group is looking at several issues related to the applicability of the Immigration and Nationality Act.

In looking to the appropriate source for immigration reform in the Commonwealth, Mr. Chairman, we note that the Commonwealth has not presented significant problems to the INS, either in the form of immigration violators gaining entry to the United States through the Commonwealth, or by the few applications that

are generated by the provisions of the Immigration and Nationality Act that do apply there.

The birth of U.S.-citizen children to aliens in the Commonwealth has exceeded original expectations, but does not create at present a significant immigration problem.

The immigration enforcement problem, it appears, is primarily focused on the Commonwealth itself. As a first step, it may be appropriate to examine the provisions of the Commonwealth immigration statutes, as well as their enforcement.

As you mentioned this morning, in June, Governor Tenorio signed into law the Immigration Enforcement Act of 1994. This law amends the immigration statutes with new provisions governing the detention and apprehension of illegal aliens, the enforcement powers of immigration officers, searches of war-sight residential facilities, immigration fraud, employment of illegal aliens, and other matters.

If vigorously enforced, these provisions should help reduce the number of undocumented aliens who either entered the Commonwealth illegally or entered legally, but overstay or violate the terms of their admission.

The rapid changes in the Commonwealth from the economic growth and increased population of the last 15 years must be carefully addressed.

The Federal Government must work with the Commonwealth of the Northern Mariana Islands to ensure a transition away from the unacceptable conditions that have resulted from these rapid changes.

However, as the Commonwealth government has pointed out, this transition must take into account the consequences on economic development and established industries.

The INS is committed to assisting the Commonwealth and improving enforcement of its immigration laws, and, in fact, most recently we responded to a letter from Governor Tenorio asking that a provision be amended for the Guam visa waiver program.

We published a regulation that put that into effect on July 13 of this year that permits persons who are entering Guam from Taiwan to transit Saipan en route to Guam.

And it was the assurance of the Governor that a vigorous pre-flight inspection program would be set up in the Islands that enabled us to support such a regulatory change. So we believe we have worked together on several issues, and we do commit to working together in the future.

This concludes my prepared remarks. I will be pleased to answer any questions, and ask that the full statement be submitted into the record.

[The prepared statement of Mr. Virtue follows:]

PREPARED STATEMENT OF PAUL VIRTUE, DEPUTY GENERAL COUNSEL, U.S.  
IMMIGRATION AND NATURALIZATION SERVICE

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to express the views of the Immigration and Naturalization Service (INS) on immigration issues in the Commonwealth of the Northern Mariana Islands (CNMI). We are concerned with these matters for two principal reasons: our commitment to work with the CNMI in enforcing its own immigration laws and regulations; and our concern that lax enforcement in the CNMI could create immigration enforcement problems in the United States. We also are concerned by the mis-

treatment of the alien labor force in the CNMI, both in and out of the workplace. We join with the other agencies of the Federal Government represented here this morning in a pledge to work together, and to work with the Government of the CNMI, to resolve these problems.

My brief statement this morning will address three major issues: the current commitment of the INS to assist the CNMI in specific areas of immigration-related enforcement; the current relationship between United States and CNMI immigration laws; and the prospect of an increased role for Federal immigration law within the CNMI. Despite the fact that the INS has no direct role in enforcement of immigration law within the CNMI, I hope that our comments on these questions will be helpful to the subcommittee.

The INS fully supports the proposal to provide technical and other assistance to the CNMI to help track and identify alien workers entering the CNMI and to enforce applicable immigration laws in the CNMI. Specifically, we stand ready to help CNMI develop a computer database and identification system for aliens present in and entering the CNMI, including a permanent record of country of origin. We understand that the lack of such records makes it difficult for the CNMI to identify aliens who are within its territory illegally and, because some aliens lose or destroy their original travel documents, to ascertain their country of origin for purposes of deportation.

For the past several months, our office of Information Resources Management has been providing information to the Governor's office regarding the Commonwealth's need for a more secure alien identification system. The Governor has acknowledged that support in an August 17 letter to INS commissioner Doris Meissner. In response, we plan to commit further technical assistance to assist the CNMI in upgrading its immigration electronic database and installing a comprehensive computer network. As resources allow, INS will provide further technical assistance and management consulting. We hope that representatives of the Governor's office will be able to travel to the mainland United States to observe the operation of INS systems and meet with the offices of Information Resource Management, Programs, and Field Operations.

The INS office of Detention and Deportation also can assist the CNMI in developing requirements for their planned immigration detention facility. INS employs a standard development model for the planning, budgeting, design, and construction of its detention facilities, and would be pleased to provide specific advice in these areas. INS also can provide information on the various methods of facility acquisition and management.

Improved alien identification systems and development of a detention facility are two areas of specific concern that have been raised in recent months. There are doubtless other ways in which the INS can provide assistance to the CNMI in the enforcement of its immigration laws. Among these are greater cooperation between INS and CNMI immigration officials in the Pacific. In the course of contacts over the past year, the INS has noticed improvement in the commitment of the CNMI Government to immigration enforcement. Nevertheless, significant concerns remain. There is evidence that persons affiliated with Asian organized crime have entered the CNMI and may be using the CNMI as a staging area for alien smuggling and other crimes. While we are not aware of a significant incidence of illegal migration to the United States through the CNMI, we are concerned that this might occur. The history of immigration enforcement in the CNMI suggests that increased oversight and improved training of CNMI immigration officers is needed. The INS is willing to participate in this effort.

As we consider strengthening the ties between the INS and immigration officers in the CNMI, we should keep in mind the current relationship between United States and CNMI immigration law.

As you know, Mr. Chairman, very little of the Immigration and Nationality Act applies to the CNMI. Under the Covenant statute and Presidential Proclamation 5564, as of November 3, 1986, citizenship was extended to the following categories of persons: those born in the Northern Mariana Islands who were citizens of the Trust Territory of the Pacific Islands and who were domiciled in the Northern Mariana Islands or in any State, territory, or possession of the United States; other citizens of the Trust Territory of the Pacific who had five years continuous domicile in the Northern Mariana Islands, and non-citizens of the Trust Territory who were domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

In addition, all persons born in the CNMI since November 3, 1986, are United States citizens. Spouses, parents, and minor children of persons who became United States citizens on November 3, 1986, and of United States citizens residing permanently in the CNMI on that date, may qualify for lawful permanent resident (LPR)

status if they meet certain requirements. Such relatives also may naturalize to United States citizenship; however, any other lawful permanent residents of the United States who take up permanent residence in the CNMI will lose their LPR status as if they moved to a foreign country. These, in summary, are the provisions of United States immigration law that apply to the CNMI.

As you also are aware, Mr. Chairman, the framers of the Covenant excluded the CNMI from United States immigration laws in order to give CNMI greater control over its own immigration policy. CNMI's intent was to limit immigration to an extent that would not be possible under the Immigration and Nationality Act (INA). Thus, the CNMI was given full authority to enact and enforce laws concerning the entry and stay of non-United States citizens. There are currently no statutory provisions for entry of non-United States citizens into the CNMI for permanent residence. Nevertheless, the years since the covenant have seen a substantial increase in the alien population, to the point that the indigenous population is outnumbered by a factor of 2:1.

We understand that this immigration of temporary workers has fueled the growth of the construction, garment, and tourist industries in the CNMI. On the other hand, this population growth has severely tested local social services and is expected to present an even greater problem in the future, when young children born in the CNMI to the immigrant population (and thus United States citizens) reach school age.

In response to this situation, some have suggested the imposition of United States immigration laws upon the CNMI. Before this step is considered, however, the consequences should be carefully examined. Unless specific statutory exceptions were made, all of the following aspects of United States law, among others, would then apply to the CNMI: exclusion and deportation of aliens; immigration as lawful permanent residents subject only to the worldwide numerical restrictions of the INA; entry of all classes of nonimmigrants; adjustment of status to lawful permanent residence; naturalization of lawful permanent residents; determinations of citizenship through birth abroad or through naturalization of parents; sanctions against employment of unauthorized aliens; entry of refugees and provisions for applications for asylum; the visa waiver pilot program; and temporary protected status.

The application of the INA can prove problematic for indigenous island populations. Many provisions of the INA would permit greater and more permanent immigration to the CNMI, particularly from certain Asian nations. For example, as mentioned above, persons admitted to the United States as lawful permanent residents are now not permitted to take up permanent residence in the CNMI without losing their immigrant status. If the INA applied to the CNMI, such persons could move to the Commonwealth just as they could move to any other United States jurisdiction. In addition, lawful permanent residents from Pacific nations who are currently in the United States might consider relocation to the CNMI.

Application of the INA also could be disruptive to the employers and industries that have drawn temporary workers to the CNMI. Under the INA, most of these workers would be ineligible for entry, due to the provisions of section 101(a)(15)(H)(2)(b) of the Act, which require that the nature of employment of a non-professional temporary worker be itself temporary. The staff occupations currently being filled by such persons in hotels, restaurants, factories, and in construction in the CNMI are most often not temporary in nature.

The impact of the INA on the tens of thousands of workers already in the CNMI also must be considered. Such aliens would be amenable to deportation, and continued employment of them in virtually any capacity would be illegal. Both the Federal Government and the CNMI may find that in order to prevent economic disruption from the sudden loss of this labor force, and to allow for the equities that many of these temporary workers have established during their periods of residence, special legislation would be appropriate. The Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (P.L. 97-271) which permitted the adjustment to LPR status of certain nonimmigrant alien workers originally admitted to the Virgin Islands in the H-2 visa category, could serve as a model for such legislation.

I wish to emphasize, Mr. Chairman, that the INS is not expressing opposition to the application of all or part of the INA to the CNMI. The Department of Justice and the INS have not taken a formal position on this issue. Among the issues we expect to address in our contacts with the inter-agency working group and the Government of the CNMI is the extent to which certain aspects of Federal immigration law could be applied to assist the CNMI in its own enforcement efforts. We raise these issues today because we believe that they must be considered in the course of such discussions. The problems of preventing large numbers of immigrants from settling in the small island communities in the western Pacific under U.S. sovereignty, and of the shortage of indigenous labor are being discussed in the course

of ongoing Commonwealth negotiations with Guam. The experiences gathered during these talks may be of use in the analysis of analogous problems in the CNMI.

In looking to the appropriate source for immigration reform in the CNMI, Mr. Chairman, it also is important to assess the impact of the current situation in the CNMI upon United States immigration. Due to its relatively isolated position, the CNMI has not presented significant problems to the INS, either in the form of immigration violators gaining entry into the United States through the CNMI, or by the few applications generated by the provisions of the INA that do apply there. The birth of United States Citizen children to aliens in the CNMI has exceeded original expectations, but does not create at present a significant immigration problem. Some of these children, after reaching the age of majority, may petition for the immigration of their parents. This could create further population pressures within the CNMI. If the INA were applied to the CNMI, of course, such children would still be United States citizens at birth.

The immigration enforcement problem, it appears to us, is primarily focused in the CNMI itself. As a first step, it may be appropriate to examine the provisions of the CNMI immigration statutes, as well as their enforcement. In June, Governor Tenorio signed into law P.L. 9-5, the Immigration Enforcement Act of 1994. This law amends the immigration statutes with new provisions governing the detention and apprehension of illegal aliens, the enforcement powers of immigration officers, searches of worksite residential facilities, immigration fraud, employment of illegal aliens, and other matters. If vigorously enforced, these provisions should help reduce the number of undocumented aliens who either enter the CNMI illegally or enter legally but overstay or violate the terms of their admission.

A useful inquiry for the inter-agency working group would be to examine CNMI immigration law and policy and its connection to labor and other economic issues. The rapid changes in the CNMI from the economic growth and increased population of the past 15 years must be carefully assessed. The Federal Government must work with the CNMI to ensure a transition away from the unacceptable conditions that have resulted from these rapid changes. However, as the CNMI Government has pointed out, this transition must take into account the consequences on economic development and established industries. The INS is committed to assisting the CNMI in improving enforcement of its immigration laws and looks forward to a productive role in the inter-agency working group addressing these concerns.

This concludes my prepared remarks. I will be pleased to answer any questions.

Senator AKAKA. Thank you very much, Mr. Virtue.

We will hear now from John Fraser, Deputy Administrator, Employment Standards Administration, Department of Labor.

**STATEMENT OF JOHN R. FRASER, DEPUTY ADMINISTRATOR,  
WAGE AND HOUR DIVISION, EMPLOYMENT STANDARDS AD-  
MINISTRATION, DEPARTMENT OF LABOR**

Mr. FRASER. Good morning, Mr. Chairman. Thank you for having us. And I too that our written statement be submitted for the record in its entirety.

Senator AKAKA. Without objection.

Mr. FRASER. Mr. Chairman, there is no question that there are increasingly serious problems of labor abuse in the Commonwealth. I would note at the outset that for years the U.S. Department of Labor has really been the only force working to stem those abuses.

We agree with the Governor in his testimony this morning that the Commonwealth must resolve the problems that its own policies have created, both its immigration and minimum wage policies, with our help.

And we are committed to providing that help. But if that does not work, if either the Governor cannot get these kinds of laws enacted, or they are ineffective in beginning to make changes in the treatment of foreign workers in the Commonwealth, we think serious consideration must be given to other Federal measures, and are joining with the other agencies in consideration of such measures.

We must apply the unprecedented steps and the commitment to change brought by Governor Tenorio. That is quite a change from the past, and we are committed to working with him and helping him to effectively implement the new programs that he has proposed.

My testimony talks about how Federal labor laws apply in the Commonwealth, how those intersect with Commonwealth laws, and I will briefly summarize that, Mr. Chairman by saying that the Fair Labor Standards Act and the Occupational Safety and Health Act both apply in the Commonwealth, with the exception of the Federal minimum wage.

That is reserved under the Covenant for the Commonwealth to set its own minimum wage.

But the other requirements of the Fair Labor Standards Act do apply, a requirement for overtime, which, incidently, is a requirement in Commonwealth law, which constrains child labor in the Commonwealth, and which require record keeping by employers.

Under Commonwealth law, the minimum wage is currently \$2.45 an hour, compared to \$4.25 an hour in the United States, but the legislature that was enacted last year is stepping that minimum wage up in 30-cent increments each year, so that it reaches \$4.25 by the year 2000.

Also in a change made last year, the minimum wage now covers construction workers, who were formerly exempt. There are, however, special minimum wage provisions for agricultural workers, for domestic workers, and for fisherman.

As has been pointed out here, because of its limited domestic labor supply, the pace of growth in the Commonwealth's private sector economy has created jobs that far outnumber the available supply of domestic workers.

This, in turn, has led to increasing reliance on foreign workers, and the magnitude of this is illustrated by the fact that more than half of the island's estimated population are non-residents.

These non-resident workers are precluded by the Commonwealth's immigration law from certain occupations, and as Paul has mentioned this morning, they are clustered in the tourism, construction, garment, and domestic service industries.

Unfortunately, the Commonwealth's heavy reliance on foreign workers has been characterized by deplorable widespread exploitation of these workers.

To prevent and remedy such abuses, both Department of Labor's Wage and Hour division and the Occupational, Safety, and Health Administration have pursued active and expanding enforcement programs in the Commonwealth.

Mr. Chairman, I hope you will convey to Senator Johnston the information I am about to report to you, so that he will understand that the Department of Labor has, indeed, been doing its job, despite very substantial obstacles, and is committed to continuing to enforce Federal labor laws in the Commonwealth.

Wage and Hour's efforts to ensure payment of required wages and other working conditions in the Commonwealth are complicated by a number of factors. I just mentioned that there are considerable obstacles.

For example, because the mainland minimum wage does not apply to the Commonwealth, the Department of Labor does not have authority to enforce the Commonwealth's minimum wage, except in work weeks in which overtime is worked, when the Commonwealth's minimum wage becomes the regular rate of pay for computing overtime premium compensation.

Also, while many businesses in Saipan are generally engaged in interstate commerce or are large enough to be covered by the Fair Labor Standards Act, this may not be the case for businesses on Rota, in some areas of Saipan, and in Tinian.

In addition, most foreign workers undertake employment in the Commonwealth for economic reasons, and want to stay and remain employed, even in situations where they are subject to abuses.

Because of this concern, they are often reluctant to assert their rights under the law or to cooperate in investigations.

And as common, and perhaps more common, are examples of intimidation, deportation, and other forms of interference with Federal enforcement efforts in the Commonwealth. But despite these obstacles, Wage and Hours made significant strides in enforcement of the Fair Labor Standards Act, both directly and through assistance to the Commonwealth government.

While our direct enforcement efforts are an important element in securing labor law compliance in the Commonwealth, real change in the compliance situation, as the Governor said this morning, must come from more effective enforcement by the Commonwealth government itself.

To this end, we have sought to leverage our limited Federal enforcement resources by assisting the Commonwealth to more effectively enforce labor standards among employers on the islands. This starts with the Governor's own commitment to improve the Commonwealth's labor laws and enforcement capability.

We have reached out to the Governor to develop a cooperative enforcement agreement that will make best use of our combined resources. Our regional administrator in San Francisco, which has jurisdiction over the Pacific, went to Saipan this spring and met with government officials, the Governor's association, and the employer's council.

During his visit, discussions were held with the Commonwealth Director of Labor and Commerce on the development of a cooperative agreement which would provide for technical assistance to both the Commonwealth government staff and the employer community as well as joint Federal-Commonwealth enforcement.

Further, we have provided training to Commonwealth Labor Department Staff to enhance their ability to enforce labor laws for which they have responsibility, to improve their professionalism.

This has included on-the-job training by having Commonwealth enforcement staff participate in our own investigations, and for the first time, Commonwealth and labor enforcement staff attended our basic investigator training course this summer.

We have invited the Commonwealth to participate in future investigator training sessions as they may need.

With regard to wage and hours direct enforcement activities in the Commonwealth, an important element of our overall program



involves an ongoing program of outreach and technical assistance to promote compliance by employers in the Commonwealth.

Under this program, our compliance staff meet with employer associations and employers to promote a fuller understanding of their responsibilities under the law.

For example, in August, our investigator, who was stationed in Guam, met with a large construction contractor on Rota and all of its subcontractors, and also held separate educational meetings with employer and employee communities to discuss the requirements and application of Federal wage and hour laws.

Efforts are now underway in conjunction with the Commonwealth government to conduct a similar compliance seminar for employers in the security guard industry in Saipan.

In addition, we believe that Wage and Hours made significant progress with its direct enforcement program in the Commonwealth, although there is clearly a long way to go, as our enforcement activities continue to uncover substantial pervasive wage and hour violations.

Since February, 1993, when our new investigator arrived in Guam, Wage and Hours conducted 12 investigations in Saipan, of which 11 disclosed violations.

These investigations involved a restaurant, five construction companies, three garment contractors, and three security guard firms. The five investigations that have been closed resulted in the collection of \$67,000 in back wages for 334 employees. The seven open cases involve over \$1 million in potential back wages due to as many 1,300 employees.

Over the same time period, four investigations have been conducted in Rota, involving three construction companies and one restaurant bar. Three of the four investigations have disclosed violations, resulting in agreement to pay back wages of almost \$13,000 to 33 employees.

In February, with assistance from Wage and Hour staff from Hawaii and the mainland, our investigator led a task force that investigated seven firms in the construction, garment, and security guard industries in Saipan.

Investigations of two garments firms revealed one firm with back wages of over \$52,000 due to 318 employees, which have been paid.

The investigation of the second garment firm, which was a follow-up to a previous investigation, disclosed continuing violations.

The Department is continuing to pursue the collection of back wages in this case, and a civil money penalty of nearly \$400,000 has been assessed as a result of violations found during this follow-up investigation.

Our investigation of the two construction firms found nearly \$45,000 in back wage payment violations, and discussions are underway with contracting agencies to withhold sufficient funds to pay the back wages found due in these cases.

Violations were also found in all three of the security guard firms investigated during this strike force. Back wages of over \$650,000 were found due.

Two of the firms have entered into installment payment plans with the Department, and the third case is currently being considered for possible legal action.

Our task force this spring also benefited from the fact that OSHA was conducted its own enforcement task force at the same time, permitting coordination and exchange of information between our enforcement agencies.

Since we began our enforcement activities in the Commonwealth in 1987, Wage and Hours have completed 47 investigations, of which 43 have uncovered violations. As a result of these investigations, we will recover nearly \$12.5 million in back wages for more than 5,000 employees.

The Department also pursues an active litigation program as part of our enforcement activities. Our most notable litigation case in this area involve the \$9 million settlement with Saipan garment firms in 1992.

Most recently, the Department sued Japan Enterprises, a business consisting of three nightclubs employing Filipino hospitality girls. Although the Department did not prevail in district court on certain issues, we did prevail on issues relating to a legal confinement and restriction of the employees.

We are currently awaiting receipt of the judge's final decision before deciding whether we will take any further action on appeal on that case.

With respect to OSHA, since its establishment in 1970, OSHA has been an active enforcement agency in the Commonwealth. Initially, its inspections occurred primarily in the garment and construction industries, but a number have also been conducted in the maritime industry.

OSHA increased its inspection efforts starting in fiscal year 1991, due to the growth in industry and employment in the Commonwealth. Since that time, OSHA has conducted 438 inspections, as a result of which it issued citations for almost 1,200 serious, willful, or repeat violations, and more than 800 other than serious violations. Penalties assessed for these violations total almost \$1.8 million.

OSHA continues to conduct follow-up inspections to ensure that safety and health hazards are abated. As I mentioned, OSHA conducted a sweep of establishments in the Commonwealth in February of this year.

The majority of the inspections carried out by five OSHA inspectors were conducted at labor barracks, garment factories, and construction sites. OSHA found that there had been some improvement in the factories and labor barracks compared to previous visits, and plans to continue its enforcement efforts in these areas.

There are other important elements to OSHA's enforcement program as well. With regard to outreach and training, OSHA staff have made two trips in each of the past years to conduct training and education seminars for employers and employees in the Commonwealth.

In March, OSHA held an occupational safety and health panel presentation at the Northern Marianas College, and after the panel presentation, employers were invited to register for a work safety and health hazard evaluation. An OSHA representative remained in the Commonwealth for several weeks to respond to approximately 30 requests for such evaluation.

As a result of OSHA's efforts, minor violations have been corrected in the factories and labor barracks in the Commonwealth in some areas.

Generally, these have been violations that are easy to correct and not too costly. However, some problems remain in areas that are more costly to correct, such as electrical and plumbing systems.

These will involve modification or retrofitting of buildings. On the mainland, these areas are largely governed by local building codes and fire protection codes that, to OSHA's knowledge, do not exist on the Commonwealth.

The Department is firmly committed to continuing OSHA's active safety and health inspection program in the Commonwealth, as well as programs of technical assistance and enforcement of wage and hours laws.

As I mentioned at the outset, there are very serious labor problems that simply must be confronted. In stark contrast to the recent past, Governor Tenorio has made it a priority of his administration, and is taking steps to address the Commonwealth's continuing labor problems.

While I will not recount his efforts, he has already discussed them with you this morning, it is noteworthy that the Governor has proposed raising the Commonwealth's minimum wage to the U.S. mainland rate by 1996, and by 1995 for the garment industry.

This proposal, if enacted by the legislature and effectively enforced, would be expected to reduce the Commonwealth's reliance on foreign workers by encouraging local workers to take jobs in the private sector economy.

While some contend that this change would adversely affect the continuing viability of some of the Commonwealth's economic sectors, especially the garment industry, which is very heavily reliant on foreign workers, convergence with the mainland minimum wage as soon as possible would serve to level the playing field with the industry's domestic competition.

Another step Governor Tenorio took was to ask Secretary Reich for cooperation and assistance in addressing the Commonwealth's long-standing labor problems. The Department is fully committed to providing assistance to the Commonwealth in conjunction with our own continuing efforts to assure compliance with the Federal labor law there.

This commitment was reaffirmed in a June 1994, letter to the Governor, in which Secretary Reich indicated a desire to establish an ongoing relationship with the Commonwealth government in its efforts to enhance the standard of living of all workers in the Commonwealth.

To carry out this commitment, the Department is working with the Commonwealth government to develop a formal agreement that would provide an ongoing framework for the Department to provide training for Commonwealth employees engaged in enforcement, to join with the Department's enforcement staff, and conducting investigations of large businesses, and to participate in joint efforts to provide technical assistance and education to the Commonwealth's employers and employees.

We believe that such an agreement with the Commonwealth that builds on the Department of Labor's ongoing enforcement efforts

can greatly assist the Commonwealth to achieve effective enforcement of its labor laws.

Beyond this, the Department will also continue its efforts to enforce compliance with Federal labor standards, which will also benefit from a closer working relationship in cooperation from the Commonwealth government.

If these efforts are successful, the winners will be all the people of the Commonwealth, especially the thousands of foreign workers on the islands who have suffered for too long from harsh exploitation.

Mr. Chairman, the Commonwealth's new administration seems determined to bring about changes needed to address its long-standing labor problems.

Governor Tenorio deserves an opportunity within the framework of the Covenant and with our help to demonstrate the Commonwealth government's ability to act on his commitment and effect real change.

Should he not be successful in an enacting his programs into law, or should these changes be ineffective in stemming the serious labor abuses that continue in the Commonwealth, we are fully prepared to work with the other agencies and the Congress to develop measures that will deal more effectively with these intolerable problems.

Mr. Chairman, that concludes my statement. I will be happy to join my colleagues in answering any questions you might have.

Senator AKAKA. Thank you very much, Mr. Fraser, for your statement. Your full statement will be included in the record.

Mr. FRASER. Thank you.

[The prepared statement of Mr. Fraser follows:]

PREPARED STATEMENT OF JOHN R. FRASER, DEPUTY ADMINISTRATOR, WAGE AND HOUR DIVISION, EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear today to discuss the Department of Labor's technical assistance efforts relating to labor law enforcement in the Commonwealth of the Northern Mariana Islands (CNMI). In doing so, I will highlight for the subcommittee the Department's efforts to assist the Commonwealth in dealing with its longstanding and increasingly serious problems of labor abuse, as well as our own labor law enforcement activities in the Commonwealth.

Your hearing today on Commonwealth immigration and labor issues comes close on the heels of new reports of exploitation of nonresident workers in the Commonwealth, this time involving Filipino workers on the island of Rota. Such exploitation fosters growing concerns about the Commonwealth's policies and sentiment for changing the application of Federal law to the Commonwealth, including Federal immigration law and the Federal minimum wage under the Fair Labor Standards Act (FLSA). The Commonwealth's continuing immigration and labor problems have also become an important issue in Congressional consideration of Federal financial assistance to the Commonwealth, with a proposal being considered to earmark a portion of FY 1995 Federal Commonwealth assistance to further immigration reform in the Commonwealth and improve the plight of foreign workers.

Mr. Chairman, new Commonwealth Governor Tenorio has made it a priority of his administration to address the continuing problem of exploitation of nonresident workers and has taken or proposed significant steps to deal with these problems, demonstrating an unprecedented commitment to resolving these problems. In this light, it is the Department's view that the Commonwealth government should be given an opportunity to follow through—with our help—in fulfilling this commitment to start to turn the situation around before consideration is given to applying Federal laws more broadly in the CNMI.

The Department of Labor fully supports the Commonwealth Governor's efforts to address pressing immigration and labor problems and is prepared to continue to as-

sist the Commonwealth to the maximum extent possible as part of its own continuing labor law enforcement program in the Commonwealth.

#### APPLICATION OF FEDERAL LABOR LAWS

Mr. Chairman, if I may, I would like to briefly describe how Federal labor standards laws apply in the Commonwealth. In doing so, I will also touch upon Commonwealth law and its relationship to Federal law.

In 1976, Congress approved the mutually negotiated "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States," which was fully implemented a decade later, in November 1986.

In order to provide a workable body of law when the new government of the Northern Marianas became operative, Section 502 of the Covenant provided a formula for application of Federal laws in the Commonwealth. Its underlying principle is that Federal laws which are applicable to Guam and generally applicable to the States would also apply in the Commonwealth. This was intended to avoid the application of legislation unique to Guam, such as laws providing for certain public works on that island. It was also intended to prevent the application of laws affecting internal matters within the Commonwealth, where similar matters within the States are preserved to State authority, consistent with the guarantee of local self-government contained in the Covenant. Consequently, Federal labor laws, such as the FLSA and the Occupational Safety and Health Act of 1970, generally apply in the Commonwealth.

Section 503 of the Covenant, however, also included special provisions regarding application of certain Federal laws that were intended to recognize the Commonwealth's special circumstances. For example, under the Covenant, the Commonwealth has the right to authorize and control immigration. The Commonwealth's Alien Labor Act of 1986 places restrictions on the types of jobs that foreign workers may hold in the Commonwealth. For example, nonresidents generally cannot be employed by government nor in certain private sector positions, such as retail trade clerks or cashiers, secretaries, bookkeepers, accounting clerks, messengers, receptionists, taxi drivers, tour boat operators, bus drivers, and switchboard operators. The rationale for these restrictions is that these private sector entry-level positions, providing opportunities to enter the work force, are intended to be reserved for Commonwealth residents who, theoretically, after gaining practical, on-the-job experience will eventually advance to more responsible, well-paying positions. Within these restrictions, however, the Commonwealth has come to admit thousands of foreign workers for employment in its private sector. In the process, the Commonwealth may be developing a two-tier workforce with long-term implications for the economic and social development of the CNMI.

With regard to the FLSA, Section 503 provides that the Commonwealth be exempt from Section 6 which contains the minimum wage provisions. After extensive study in 1975-1976, the Marianas Political Status Commission concluded that the islands' local economy could not support the minimum wage applicable in the United States (which was \$2.30 per hour in 1976). It noted that the mainland Federal minimum wage was based on the cost of living and prevailing wage levels in the highly developed mainland economy. The Commission's conclusion was that premature imposition of the mainland minimum wage on the Commonwealth's private employers might force many out of business and contribute to a substantial increase in the cost of living in the islands.

Congress enacted this exemption from the mainland minimum wage in recognition of the special conditions prevailing in the Commonwealth. This was consistent with other historical decisions to provide special minimum wage treatment for other territorial areas—including American Samoa, Puerto Rico, and the Virgin Islands—because of their special circumstances. Other provisions of the FLSA, however, including its overtime, recordkeeping and child labor requirements, are applicable to the Commonwealth.

Under the Covenant, the Commonwealth government has the authority to set its own minimum wages for private employers, as well as its own employees, and has done so. The Commonwealth's minimum wage, established by the legislature, is currently \$2.45 an hour (compared to the \$4.25 per hour United States mainland minimum wage rate). The general overtime requirement under the Commonwealth minimum wage law is the same as under the FLSA—time and one-half the regular rate for hours over 40 in a work week.

Under changes to the Commonwealth's minimum wage law enacted in June 1993, and subsequently revised in December 1993, the CNMI minimum wage is to increase in \$.30 increments until it reaches the mainland rate of \$4.25 per hour in the year 2000. Under the June 1993 enactment, the minimum wage was increased

from \$2.15 to \$2.45 per hour effective in December of that year and would have been increased in \$.30 annual increments to the mainland rate by 1999. The December 1993 revisions deferred the first additional \$.30 increment until January 1995, as opposed to January 1994 under the June enactment. The purpose of the deferral was to provide a one-year span between the increase to \$2.45, which took effect in December 1993, and the first \$.30 increment which would otherwise have taken effect in January 1994. This change was deemed necessary to allow employers to adequately prepare for the financial impact of the increase.

The recent changes in the Commonwealth's minimum wage law also expanded minimum wage coverage to construction workers, and provided special minimum wage treatment for exempt agricultural and domestic workers and fishermen. Exempt domestic workers are those employed to provide casual babysitting services if they reside in the home of an employer where one or more children are present, and those who reside in the home of an employer where they care for an elderly or disabled person. Exempt agricultural workers are those employed by employers of less than 10 employees. Each of these categories of exempt workers—in agriculture, domestic work and fishing—now must be paid not less than \$200 a month and may not work more than 12 hours a day or 72 hours a week without overtime compensation.

The Commonwealth's law continues to provide complete exemptions from its minimum wage and overtime requirements for certain other employees, including those employed by close family members; seamen; golf caddies; students; taxi drivers; and those employed in an executive, administrative, or professional capacity, or in outside sales or collections.

Earlier this year, Governor Tenorio proposed raising the Commonwealth's minimum wage to the United States mainland rate by 1995 for the garment industry, and by 1996 for the other covered occupations. This proposal has yet to be considered by the Commonwealth legislature.

Mr. Chairman, the Commonwealth experienced a rapid pace of economic growth in the 1980's which, while slowing, is expected to continue in the future. Recent growth has been fueled primarily by tourism. The Commonwealth has also seen the development and rapid expansion of its garment industry—its only significant manufacturing activity.

Because of its limited domestic labor supply, the pace of growth in the Commonwealth's private sector economy has created jobs that far outnumber the available supply of domestic workers. This, in turn, has led to an increasing reliance on foreign workers. The magnitude of this reliance is illustrated by the fact that, as reported by the Department of the Interior, more than half of the islands' estimated population are nonresidents.

To support economic growth on Saipan, and to a lesser extent on Tinian and Rota, large numbers of nonresident workers have been brought into the Commonwealth from Asian countries—principally the Philippines, Korea, and China. As noted above, these nonresident workers are precluded by the Commonwealth's immigration law from certain occupations and they are clustered in the tourism, construction, garment and domestic service industries.

Unfortunately, the Commonwealth's heavy reliance on foreign workers has been characterized by deplorable, widespread exploitation of these workers. Probably the most well publicized case is that in which the Department, in 1992, obtained \$9 million in back wages and damages for workers in five factories in the Saipan garment industry. Sadly, such foreign labor exploitation persists, as revealed in the situation in Rota where nonresident workers have allegedly been deprived of wages, denied their civil rights, and subjected to physical, sexual and emotional abuse.

#### DEPARTMENT OF LABOR EFFORTS IN THE COMMONWEALTH

To help prevent and remedy such abuses, both the Employment Standards Administration's Wage and Hour Division (Wage and Hour), which enforces the FLSA, and the Occupational Safety and Health Administration (OSHA) have pursued active and expanding enforcement programs in the Commonwealth. Let me briefly describe these programs and highlight some of our recent activities and findings.

Wage and Hour's efforts to ensure payment of required wages and other working conditions in the Commonwealth are complicated by a number of factors. For example, because the mainland minimum wage does not apply to the Commonwealth, the Department does not have authority to enforce the Commonwealth's minimum wage except in work weeks during which an employee works more than 40 hours—not an uncommon situation—when the Commonwealth's minimum wage becomes the required "regular rate of pay" against which overtime compensation is calculated. Also, while many businesses on Saipan are generally engaged in interstate com-

merce or are large enough to be covered by the FLSA, this often may not be the case in areas such as Rota. In addition, most foreign workers undertake employment in the Commonwealth for economic reasons and want to stay and remain employed, even in situations where they are subject to abuses. Because of this concern, they are often reluctant to assert their rights under the law. Despite these obstacles, Wage and Hour has made significant strides in its enforcement of the FLSA in the Commonwealth, both directly and through assistance to the CNMI.

Since 1981, Wage and Hour has maintained an office in Guam staffed by an investigator (who reports to our office in Hawaii) to carry out our labor standards enforcement responsibilities in the Western Pacific territories. In terms of the numbers of employers and employees covered by the FLSA, the territory for which this investigator is responsible compares quite favorably with other Wage and Hour investigators. Moreover, in carrying out enforcement activity in the Commonwealth, which supplements that enforcement carried out by the CNMI itself, staff from other Wage and Hour offices are made available to assist the investigator in enforcing the law.

While our direct enforcement efforts—which I'll discuss more in a moment—are an important element in securing labor law compliance in the CNMI, real change in the compliance situation must come from more effective enforcement by the Commonwealth government itself. To this end, we have sought to leverage our limited Federal enforcement resources by assisting the Commonwealth to more effectively enforce labor standards among employers in the islands.

This starts with the Governor's commitment to improve the Commonwealth's labor laws and enforcement capability. We have reached out to the Governor to develop a cooperative enforcement agreement that will make the best use of our combined resources. Wage and Hour's San Francisco Regional Administrator went to Saipan this Spring and met with government officials, the garment association, and the Employers' Council. During his visit to Saipan, discussions were held with the CNMI Director of Labor and Commerce on the development of a cooperative agreement which would provide for technical assistance to both CNMI government staff and the employer community, as well as joint Federal-Commonwealth enforcement. Further, Wage and Hour has provided training to Commonwealth Labor Department staff to enhance their ability to enforce the labor laws for which they have responsibility. This training, which includes on-the-job training by having Commonwealth enforcement staff participate in Wage and Hour investigations, is intended to help increase the expertise and professionalism of the Commonwealth's labor compliance staff. For example, a Commonwealth investigator recently accompanied our Wage and Hour investigator in a review of compliance by the largest construction firm on Rota. In addition—for the first time—four Commonwealth enforcement staff recently attended Wage and Hour's basic investigator training course. We have invited the Commonwealth to participate in future investigator training sessions as they may need.

With regard to Wage and Hour's direct enforcement activities in the CNMI, an important element of our overall program involves an on-going program of outreach and technical assistance to promote compliance by employers in the Commonwealth. Under this program, our compliance staff meet with employer associations and employers to promote a full understanding of their responsibilities under the law. For example, in August our investigator met with a large construction contractor on Rota, and all of its subcontractors, and also held two separate meetings with the employer and employee communities to discuss the requirements and application of Federal wage and hour laws. Efforts are now underway, in conjunction with the CNMI government, to conduct a similar compliance seminar for employers in the security guard industry on Saipan.

In addition, we believe that Wage and Hour has made significant progress with its direct enforcement program in the Commonwealth. There is clearly a long way to go as our enforcement activities continue to uncover substantial wage and hour violations.

Wage and Hour's initial enforcement activities in the Commonwealth began in 1987. Prior to 1993, our investigations focused on the garment and restaurant/bar industries in Saipan. Since then, Wage and Hour enforcement has included Rota and has expanded further into the restaurant/bar industry and now includes construction and security guard firms.

Since February 1993, when a new investigator arrived in Guam, Wage and Hour has conducted twelve investigations in Saipan, of which eleven disclosed violations. These investigations involved a restaurant, five construction companies, three garment contractors, and three security guard firms. The five investigations that have been closed, which include one case where no violations were found (in the construction industry), resulted in the collection of \$66,640 in back wages for 334 employees.

The seven open cases involve over \$1 million in potential back wages due to as many as 1,300 employees.

Over this same time period, four investigations have been conducted in Rota, involving three construction companies and one restaurant/bar. Three of the four investigations (excepting one construction company) disclosed violations, resulting in agreement to pay back wages of almost \$13,000 to 32 employees.

In February of this year, with assistance of Wage and Hour staff from other offices, our investigator led a task force that investigated seven firms in the construction, garment and the security guard industries in Saipan. Investigations of the two garment firms revealed one firm with back wages of over \$52,000 due to 318 employees which have been paid. The investigation of the second garment firm, which was a follow-up to a previous investigation, disclosed continuing violations. The Department is continuing to pursue the collection of the back wages found due in this case. In addition, a civil money penalty of nearly \$384,000 has been assessed as a result of violations found during this follow-up investigation.

The investigations of two construction firms found nearly \$45,000 in wage payment violations. Discussions are underway with contracting agencies to withhold sufficient funds to pay the back wages found due. Violations were found in all three of the security guard firms investigated. Back wages of over \$650,000 were found due. Two firms have entered into installment payment plans with the Department, with the third case being considered for possible legal action.

This Wage and Hour task force effort also benefitted from the fact that OSHA was conducting its own enforcement task force at the same time, permitting coordination and exchange of information between our agencies.

Since it began its enforcement activities in 1987, Wage and Hour has completed 47 investigations in the Commonwealth, of which 43 have uncovered violations. As a result of these investigations, we will recover nearly \$12.5 million in back wages for more than 5,000 employees.

The Department also pursues an active litigation program as part of its Wage and Hour enforcement activities. The Department's most notable litigation case in this area involved the already-cited \$9 million settlement with Saipan garment firms in 1992. Most recently, the Department sued Japan Enterprises, a business consisting of three night clubs employing Filipino hospitality girls. Although the Department did not prevail in District Court on certain issues, it did prevail on issues relating to illegal confinement and restriction. The Department is currently awaiting receipt of the Judge's final judgment before determining its next course of action in this case. Additional litigation is being considered by the Department, including in some of the contested cases.

Since its establishment in 1970, OSHA has conducted inspections, educational and outreach activities in the Commonwealth. OSHA's inspections have occurred primarily in the garment and construction industries, and a number have been conducted in the maritime industry.

OSHA increased its inspection efforts starting in FY 1991 due to the growth in industry and employment in the Commonwealth. Since that time, OSHA has conducted 438 inspections, as a result of which it issued citations for 1,174 serious, willful, or repeat violations, and 833 other-than-serious violations. Penalties assessed for these violations totaled almost \$1.8 million.

OSHA continues to conduct follow-up inspections to ensure that safety and health hazards are abated. As mentioned above, OSHA conducted a sweep of establishments in the Commonwealth in February 1994. The majority of the inspections, which were carried out by five OSHA inspectors, were conducted at labor barracks, garment factories and construction sites. OSHA found that there had been improvement in the factories and labor barracks compared to previous visits, and plans to continue its enforcement efforts in these areas.

There are other important elements to OSHA's enforcement program in the Commonwealth. With regard to outreach and training, OSHA staff have made two trips in each of the past three years to conduct training and education seminars for employers and employees in the Commonwealth. These were initially targeted to the garment industry, but in FY 1994 OSHA's focus was expanded to include assistance to all types of industries.

In March of this year, OSHA held an occupational safety and health panel presentation at the Northern Marianas College, jointly sponsored with the college, which included presentations by the Chamber of Commerce, the Garment Manufacturers Association, and the Saipan Contractors Association. After the panel presentation, employers were invited to register for a worksite safety and health hazard evaluation and the OSHA representative remained in the Commonwealth for several weeks to respond to approximately 30 requests for such evaluations.



OSHA has also received an application for a cooperative agreement with the Northern Marianas College which would provide Federal funding for safety and health training and consultation services to employees and employers in the Commonwealth. This application will be considered in the FY 1995 funding process.

In terms of OSHA-related litigation, of the 164 inspections conducted in FY 1993, 14 were contested and decisions or settlements have been issued by Administrative Law Judges in six of these cases. The remaining eight continue in litigation. In the 75 inspections in FY 1994 to date, six citations have been contested but more are expected because many of the citations were issued fairly recently.

As a result of OSHA's ongoing efforts, minor violations have been corrected in the factories and labor barracks in the Commonwealth in some areas. Generally, these have been violations that are easy to correct and not too costly. However, some problems remain in areas that are more costly to correct, such as electrical and plumbing systems. These would involve modification or retrofitting of buildings. On the mainland, these areas are largely governed by local building codes and fire protection codes that, to OSHA's knowledge, do not exist on the Commonwealth.

The Department is firmly committed to continuing OSHA's active safety and health inspection program in the Commonwealth, as well as programs of technical assistance and enforcement of wage and hour laws.

#### WHAT NEEDS TO BE DONE

As I mentioned at the outset, there are still serious problems that simply must be confronted. In stark contrast to the recent past, Commonwealth Governor Tenorio has made it a priority of his administration and is taking steps to address the Commonwealth's continuing labor problems.

For example, immediately upon taking office, Governor Tenorio demonstrated his commitment to addressing these problems by initiating investigations of alleged labor abuses in Rota and Saipan. As I mentioned earlier, Governor Tenorio has also proposed raising the Commonwealth's minimum wage to the United States mainland rate by 1996 (by 1995 for the garment industry). This proposal, if enacted by the legislature, would be expected to reduce the Commonwealth's reliance on foreign workers by encouraging local workers to take jobs in the private sector economy. While some contend that this change would adversely affect the continuing viability of some of the Commonwealth's economic sectors—especially the garment industry which is heavily reliant on foreign workers—convergence with the mainland minimum wage as soon as possible could serve to level the playing field with the industry's domestic competition.

Governor Tenorio has also taken steps to improve the effectiveness of the CNMI's labor law enforcement by creating a separate Department of Labor and Immigration and centralizing enforcement of Commonwealth labor laws. He has also approved the Immigration Enforcement Act of 1994 which provides the Commonwealth government with more effective authorities to identify, locate and repatriate illegal foreign workers, and increases penalties on those who violate the Commonwealth's immigration law.

Governor Tenorio has also taken specific steps to address the foreign worker abuse situation in Rota. A Commonwealth special task force has investigated and confirmed the abuses, and the authority of the head of the Commonwealth's enforcement office in Rota has been suspended. We understand that the Commonwealth government is also working with the Philippine government to develop safeguards to control nonresident labor in the Commonwealth to prevent recurrence of these kinds of abuses. A draft memorandum has been developed that sets out how the two governments will work together and a labor liaison office will soon be set up in Manila which will be responsible for the clearance of all Philippine workers for the Commonwealth.

Another step Governor Tenorio took was to ask Secretary of Labor Reich for cooperation and assistance in addressing the Commonwealth's longstanding labor problems. As I mentioned, the Department is fully committed to providing assistance to the Commonwealth in conjunction with its own continuing efforts to ensure compliance with Federal labor law in the Commonwealth. This commitment was reaffirmed in a June 1994 letter to Governor Tenorio in which Secretary Reich indicated a desire to establish an ongoing relationship with the Commonwealth government in its efforts to enhance the standard of living of all workers in the Commonwealth.

To carry out this commitment, the Department is working with the Commonwealth government to develop a formal agreement that would provide an ongoing framework for the Department to provide training for Commonwealth employees engaged in enforcement; to join with the Department's enforcement staff in conducting

investigations of large businesses; and to participate in joint efforts to provide technical assistance and education to the CNMI's employers and employees.

We believe that such an agreement with the Commonwealth that builds on the Department's ongoing enforcement efforts can greatly assist the Commonwealth to achieve effective enforcement of its labor laws. Beyond this, the Department will also continue its efforts to enforce compliance with Federal labor standards laws, which will also benefit from a closer working relationship with the Commonwealth government.

If these efforts are successful, the winners will be all of the people of the Commonwealth, especially the thousands of foreign workers on the islands who have suffered for too long from harsh exploitation.

#### CONCLUSION

Mr. Chairman, the Commonwealth's new administration seems determined to bring about the changes needed to address its longstanding labor problems. Governor Tenorio deserves an opportunity—within the framework of the Covenant, and with our assistance—to demonstrate the Commonwealth government's ability to act on his commitment and effect real change. Should he not be successful in enacting his programs into law, or should these changes be ineffective in stemming the serious labor abuses that continue in the Commonwealth, we are prepared to work with other agencies and the Congress to develop measures that will deal effectively with these intolerable problems.

Mr. Chairman, this concludes my prepared testimony. I will be pleased to join my colleagues in answering questions you or the members of the subcommittee have.

Senator AKAKA. The statement that the Department envisions implementing the reservation of up to \$7 million of Government funds for initiatives to strengthen and improve immigration controls in the CNMI and other law enforcement activities, as outlined in the fiscal year 1995 Interior appropriations bill, can you tell me how quickly this plan will be developed?

Mr. STAYMAN. Based upon your assurance today that that is a virtual appropriation, I think we can move ahead very swiftly. We have had three meetings of our working group.

I plan to be in the Marianas in the first week of November, and it will be my hope that we can get some draft reimbursable agreements with other Federal agencies and with the CNMI ready for me to take on that trip, and have them implemented as quickly as possible after that.

Senator AKAKA. You have committed to providing a report to this committee no later than March 15 on how these funds will be used.

Will you make further recommendations with other Federal agencies on steps that we can take to improve our relationships effort with NMI?

Mr. STAYMAN. Yes. At this point, the scope of our discussions is very broad. What the actual recommendations will be in that March report are going to depend upon what actions are taken at the local government, what the results of Federal assistance are, and a much more close examination of the interactions that would occur as a result of the implementation of certain of those policies.

As was pointed out, there is going to be a synergy and interaction between the policies, which is difficult to analyze at this point. But, yes, we intend to have a very broad scope in our discussions, but limit the recommendations to things that are very well thought out.

Senator AKAKA. The position of the Department with respect to Governor Tenorio's request that changes in the current application of U.S. citizenship to children born to foreign workers will be addressed in 902 consultations.

Would the introduction of legislation in the Senate to accomplish this change statutorily encourage the Department to begin such negotiations?

Mr. STAYMAN. The Department is very committed to getting started on 902. I believe initial meetings, on an informal level, have taken place.

I think it is premature to introduce legislation at this time, and there have to be a fair amount of discussions in the administration on the nuances of this proposal, but given that the Governor has made this proposal, we regard it seriously, and will give it full consideration.

Senator AKAKA. Under section 902 of the Covenant, issues concerning the relationship between CNMI and the United States are to be addressed through regular meetings, I understand. What topics are currently under discussion between the administration and CNMI government under section 902 of the Covenant?

Mr. STAYMAN. As the Governor mentioned, he has appointed his representative. His administration has been in office now for 9 months. And President Clinton has designated Mr. Ed Cohen of the Department of the Interior to be his representative.

My understanding is that the agenda at this point for discussions involves the representations of the CNMI here in the United States; that is, there has been ongoing consideration of upgrading representation of the CNMI from a resident representative to a non-voting delegate in the House of Representatives, which would bring it in line with the representation of the other territories.

The second issue which the Governor has proposed to have put on the table is citizenship of children born to non-U.S.-citizen residents in the CNMI. I do not believe there has been a final response from the Administration on that proposal to put that on the table.

Senator AKAKA. As Governor Tenorio stated, in addition to alien contract workers from the Philippines, China, and Thailand, immigration from other Pacific islands is also causing a burden on CNMI.

What is the administration's response to CNMI's concerns regarding the current unlimited immigration from the previous associated states, like the Marshall Islands and Federated States of Micronesia?

Mr. STAYMAN. The administration recognizes that under the terms of the compact that immigrants can go to the CNMI, Guam, or Hawaii on a non-discriminatory basis, and they have a substantial impact.

Our study on just the CNMI shows that their impact is nearly double of what the impact of guest workers is on the community, primarily because there is no requirement that they actually be employed.

The administration has struggled with this problem, because the costs of compensating the local government for those impacts really exceeds our budgetary resources at this time.

In discussions with Chairman Yates on the House side we agreed that we would examine existing Federal programs so that we might be able to reallocate resources under those programs to help provide the compensation which the U.S. Government indicated that it would provide.

Senator AKAKA. Mr. Virtue, Governor Tenorio correctly points out that the Covenant requires the U.S. Government to appoint a U.S. attorney and a U.S. marshal for the Marianas.

Despite this requirement and Government Tenorio's request, neither position has been filled. Can you explain to me why this has not been filled, and what resources will be required to do so?

Mr. VIRTUE. Well, I am afraid I cannot, Mr. Chairman. I am speaking on behalf of the Immigration Service here this morning, and I do not have a broader portfolio within the Department of Justice to answer that question, but we can supply information for you, if you wish, for the record, in response to both the question of resources and the question of other issues.

Senator AKAKA. We would appreciate that for the record. What resources would be required to establish a permanent DEA presence on Saipan, as the Government as requested?

Mr. VIRTUE. I am afraid I have to take that same position with respect to that question, but the Justice Department would supply again information for that to the record.

Senator AKAKA. Governor Tenorio has outlined an interesting, and in my view, excellent suggestion for changing the current application of the U.S. citizenship to children born to foreign workers or aliens in the CNMI. What is the position of the Department on this subject?

Mr. VIRTUE. The Department has not taken a position, as Al just mentioned in his position to some of your questions. We are taking a look at that proposal, and reviewing it with respect to issues of constitutionality as well as straight applicability under the Covenant and the statutes, but we have not taken a position on that yet.

Senator AKAKA. What timetable exists for setting up the computerized tracking system, with INS assistance?

Mr. VIRTUE. Well, in terms of our assistance to the CNMI, we have been providing that assistance.

I am not aware of what the timetable that the Commonwealth has for implementing it, but as Al also mentioned in his response to your question is the news about the \$7 million set-aside for that purpose, is it should promote a prompt implementation of the things that we have already been talking about, and will enhance our ability to provide further technical assistance on the computerized data bases, which we believe, as does the Commonwealth, are sorely needed.

Senator AKAKA. Mr. Fraser, on March 1, Governor Tenorio requested the Department of Labor to establish an office in Saipan to enforce Federal laws and to train local enforcement personnel.

Does the Labor Department agree that a permanent presence will enhance compliance with Federal laws? What resources would the department require to open such an office?

Mr. FRASER. Mr. Chairman, the Governor did make that request. That was more or less in conjunction with our visit out there and discussions with the Labor and Commerce Secretary.

We have an investigator who, since 1981, has been stationed in Guam who also serves the Commonwealth. He reports to our office in Hawaii. The cost of maintaining that investigator is about

\$150,000 a year, including his travel costs, to visit the Commonwealth and go to the islands in the Commonwealth.

And in budgetary terms, that creates a real problem for us, in light of the fact that our investigator resources have declined by about 30 percent in recent years as a result of congressionally imposed budget reductions.

In addition, there is a policy issue involved in terms of fairness and equity. In the United States, on average, we have one investigator serving every 320,000 in the population. In Hawaii, we have one investigator serving every 280,000 in the population.

In Guam and the Commonwealth, our investigator services 190,000. So we have almost twice the investigative presence in the Commonwealth and Guam than we do anyplace else.

In Los Angeles, we have one investigator for every 670,000 people, so we are very concerned about making sure there is an equitable enforcement presence.

Clearly, as I said this morning, as my colleagues have said, as the Governor has said, there are very serious problems of labor abuse in the Commonwealth.

We have committed to using our investigative resources to help the Commonwealth get a handle on that. We have sent additional people out to conduct strike forces, both for Wage and Hour and for OSHA.

And should the earmark that you discussed this morning, Mr. Chairman, be enacted, and should funds become available, the Governor has already indicated a willingness to use some of that money to enhance Federal enforcement presence, we would certainly be amenable to working with him to do that.

But it is a very expensive proposition, and one where we have to be concerned with the equities within enforcement requirements in the United States and in Hawaii, in particular.

Senator AKAKA. As was noted by Governor Tenorio, there has been a concern about enforcement of Federal laws in CNMI. And that point needs to be made clear to him by the Federal agencies.

And also I would like to make a point that in his statement that the appointment of the U.S. attorney and U.S. marshal in the Northern Mariana Islands is required by U.S. law; therefore, we need to move quickly on that. And he advised us that it would be better if the offices were separate. And I just want to note that from his statement.

I would like to place in the record also the testimony from the resident representative of CNMI, the Honorable Juan Babauta, and also the testimony of Director Hawk from the Federal Bureau of Prisons.\*

I would like to thank all of our witnesses, especially the Governor, and these people who have traveled so far here, and to thank him very much for his statement to us. And I also thank the witnesses from the Federal panel.

It will be very helpful, as the committee continues to consider the issues discussed before us today, in looking at this hearing as the beginning of response from the Federal Government to CNMI, and also the beginning of CNMI moving some of the laws that are need-

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\*The testimonies can be found in appendix II.

ed to correct some of the problems and violations that we have now in CNMI.

I look forward to working with Governor Tenorio and the Federal officials present in addressing these problems.

If there are no further comments to be made, again, I want to say thank you. This has been useful to us. And this will be the beginning of some of the changes that are needed.

The hearing record will remain open for two weeks.

The committee is adjourned.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

## APPENDIXES

### APPENDIX I

#### Responses to Additional Questions

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,  
Saipan, MP, October 27, 1994.

Hon. DANIEL K. AKAKA,  
*Chairman, Mineral Resources Development and Production Subcommittee, Senate  
Energy and Natural Resources Committee, Washington, DC.*

DEAR CHAIRMAN AKAKA: Thank you for forwarding the questions from Senator Murkowski and Senator Craig. Our answers are enclosed.

We very much appreciate your holding the September 22 hearing on issues associated with immigration into the Commonwealth. It provided an opportunity for us to acknowledge our problems and outline our action plan for their solution. You and the members of the subcommittee also made it clear to the Commonwealth Legislature and the applicable federal agencies, in no uncertain terms, that their cooperation and positive action is essential.

We are also grateful to Chairman J. Bennett Johnston for his continuing support and for earmarking \$7 million of Covenant funds to help resolve our immigration and related issues.

Please thank Senators Murkowski and Craig for their attendance at the hearing and their interest in helping to resolve our immigration and labor problems. You may assure them and the other members of the Subcommittee and full Committee of our resolve to improve the situation significantly over the next several months. I look forward to continuing cooperation between the Commonwealth and your Subcommittee.

Thank you again for your support.

Sincerely,

FROILAN C. TENORIO.

[Enclosures.]

#### RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

*Question 1.* Governor, aren't most of these abuses violations of federal law as well as local law?

Answer. Most violations relating to wages, such as failure to pay overtime and working and living conditions are violations of federal law, as well as local law. Criminal offenses, such as assault or rape, are strictly local matters.

*Question 2.* How many people are on the islands from the Department of Labor, OSHA, etc.?

Answer. No U.S. Department of Labor personnel, from either the Wage and Hour Division of OSHA are permanently assigned to the CNMI. Enforcement officers from these agencies visit from Guam or elsewhere from time to time.

*Question 3.* In your view, is the U.S. vigorously enforcing federal laws?

Answer. When federal enforcement officers enforce federal laws here, they do so vigorously. This has a preventive effect, as well as a punitive one. The problem is that the lack of sufficient federal personnel makes the overall effort anything but vigorous.

*Question 4.* Governor, what is your assessment of the capability of the Federal Government to enforce federal laws with the CNMI in terms of agency personnel from Labor and other agencies and for prosecution?

Answer. The occasional visits of federal Labor officials are helpful, but insufficient. For the Department of labor to be capable of systematic and comprehensive

enforcement of applicable federal laws, it must have a full-time, adequately staffed, permanent enforcement office in the CNMI, as requested in my letter to Secretary Reich.

Similarly, Justice Department coverage of the Commonwealth is inadequate. Many violations of federal laws are not investigated or prosecuted. As U.S. District Court Judge Munson and I stated in our joint letter to the President, we must have our own U.S. Attorney and U.S. Marshall. Under the present situation, personnel assigned to Saipan from the Guam offices of these agencies can be pulled off local cases to meet Guam priorities and are insufficient in any case.

We also need more frequent attention from the FBI and especially from the Drug Enforcement Agency.

*Question 5.* What has your government done to try and work out some cooperative arrangement with the federal immigration and customs services?

*Answer.* As noted in my testimony, I have written to INS Commissioner Meisner and to the INS field and program staff requesting technical support to integrate the varied components of the new state-of-the-art immigration tracking system that we are purchasing. Since the hearing, we have received the attached reply from the INS agreeing to provide such assistance to the extent that their resources allow. In addition, we need to have on-line access to appropriate INS data bases to help us screen out undesirable aliens and deny them entry into the Commonwealth.

Since we are outside the customs territory of the U.S., we do not have extensive contact with the Customs Service. However, we do collect currency declaration forms on its behalf.

*Question 6.* There are obvious fiscal effects from the tripling of the resident population of the CNMI as a result of your immigration policy. What are you doing to ensure that those sectors, such as tourism, garment industry, and those people who employ domestics are contributing enough revenue to the CNMI to fully cover the costs of education, health, crime, and other social costs, as well as the demands on infrastructure?

*Answer.* The most important measure to ensure that nonresidents and their employers cover the costs of their presence in the CNMI is the bill we have before the Legislature to bring our local minimum wages up to U.S. standards. This will provide a substantial increase in local tax revenues. We are also tightening rules that require employers to cover the health expenses of their alien workers. I should also note that the local purchasing power of these workers is already significant, and contributes to the taxes paid by local businesses.

*Question 7.* You mention that between three and four hundred children are born in the CNMI every year of aliens. That is not just a matter of CNMI concern but also of U.S. concern because these children are U.S. citizens due to a provision of the Covenant. That provision is subject to mutual consent, as I recall. You mention that you want that to be discussed within the 902 discussions with the Administration. Has the Administration responded to your suggestion?

*Answer.* It is sometimes forgotten that Covenant Section 902 consultations are mandatory, not optional, once requested by either government. I am pleased to inform you that the White House has now responded favorably to our request, per the attached letter from Marcia L. Hale, Assistant to the President and Director of Intergovernmental Affairs.

#### RESPONSES TO QUESTIONS FROM SENATOR CRAIG

*Question.* How many local labor officials do you now have? What sort of training do they receive?

*Answer.* Our Division of Labor has a staff of approximately 40 people, some 15 of whom are enforcement officials. Approximately 10 staff members have attended Wage and Hour workshops given by the U.S. Department of Labor in Washington, DC, or on Guam.

*Question.* You have asked the U.S. Department of Labor for training assistance for your employees and for local businesses. What has been the result? Will this be a continuing program?

*Answer.* Secretary Reich responded positively to my request for assistance in training our local labor officials. Although this program has not yet been implemented, I have every hope that it will be successful. If so, it should be continued, as necessary. The Northern Marianas College participated in an OSHA program to help train local businesses how to comply with federal regulations governing the working and employer-provided living conditions of their employees.

*Question.* What exactly are your local immigration procedures for (a) foreign worker permits and (b) tourist visas? What requirements do you have for tourists to show



they can support themselves financially and how does this differ from U.S. law? What sort of background checks do you do?

Answer. (a) Entry permits for nonresident workers are issued for a period of one year upon presentation of a certificate issued by the Director of Labor. The certificate is issued only after an extensive process in which the employer demonstrates that there is no resident worker available to fill the position and that the aliens meet the job requirements. We recently tightened the procedures even further pursuant to an agreement with labor officials of the Government of the Philippines, the source of our largest group of nonresident workers.

(b) Tourism is our largest industry and provides most of our private sector business and tax revenues. As a tourist destination, we try to expedite the entry of visitors into the Commonwealth. We do not have a visa system per se (except for foreign investors). Tourists are permitted to enter for up to 90 days on an arrival/departure card; entry permits are available for longer stays. If there is any doubt that the tourist will be self-supporting, immigration inspectors can ask to see an out-bound ticket or can otherwise examine the alien. This is similar to entry into the U.S. under the visa waiver program. Just as in the U.S., some aliens have used tourist entry to evade regular labor procedures. This will be nearly impossible with the new immigration tracking system.

Background checks are not done on tourists. However, we expect that future cooperation with the INS will help us screen out undesirable aliens. Reasonably extensive background checks, including police certificates, are required for nonresident workers. Our new Marianas/Manila Liaison Office will assist in this procedure, which has been tightened even further under our recent agreement with Philippine labor officials. We will also open a similar office in Hong Kong for workers from China.

*Question.* How precisely do you plan to oversee your order that cash transfer (welfare) payments not be used to pay domestic workers? Is this a statutory prohibition or an executive order which could be repealed in the future without an act of the legislature?

Answer. It is not just that the transfer payments themselves cannot be used to hire foreign maids and other domestic workers, the families receiving assistance are not permitted to hire them at all, regardless of the source of funds. Employers who apply for labor certificated will have to state that they are not receiving such assistance, and there are criminal penalties for false statements.

The prohibition has been implemented by regulation. This was so that we could impose it immediately. Our comprehensive labor reform bill, which includes a similar provision, is awaiting action by the Legislature.

*Question.* One allegation some workers have made is that there is no safe way for them to complain. Do you have a hotline system or safe house for those bringing complaints against their employers? What protection is given to complainants?

Answer. The majority of nonresident workers who bring complaints already have left their employer. Although there are no government safe houses or hotlines, private and voluntary organizations, such as the Catholic Church, often are able to provide a variety of such services to complaining workers. The Office of the Attorney General sometimes arranges housing for complaining witnesses in criminal cases. We are working to expand the range and availability of these protective services. In addition, when a complaint is found to have merit, arrangements are made to transfer the worker to a different employer, at least for the time it takes to pursue the complaint.

*Question.* What is the status of your minimum wage proposal? Of proposals you have made to reform the current tax system? What are the prospects for passage?

Answer. Both the minimum wage proposal and the tax reform bills have been awaiting action by our House of Representatives for many months. However, I'm not optimistic about passage by our House of Representatives.

[Attachments.]

THE WHITE HOUSE,  
Washington, DC, October 11, 1994.

Hon. FROILAN C. TENORIO,  
Governor, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan,  
MP.

DEAR GOVERNOR TENORIO: I have received your letter dated September 18, 1994, urging that consultations on the citizenship status of children of aliens born in the CNMI take place in the context of Section 902 of the Covenant rather than through an interagency working group. I understand that Assistant Secretary Turner has provided you with the interagency working group's interpretation of the Covenant

with regard to this issue and I conclude from your letter that you do not dispute this interpretation.

We are prepared to discuss this issue under the Section 902 process. In addition, I want to confirm, as you requested, that Mr. Edward Cohen has been designated by the President to consult on both the immigration and citizenship issues as well as on the role of the Resident Representative in the United States.

We look forward to fruitful discussions in the weeks ahead.

Sincerely,

MARCIA L. HALE,  
*Assistant to the President.*

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IMMIGRATION AND NATURALIZATION SERVICE,  
OFFICE OF INFORMATION RESOURCES MANAGEMENT,  
*Washington, DC, September 19, 1994.*

Hon. FROILAN C. TENORIO,  
*Governor, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan,  
MP.*

DEAR GOVERNOR TENORIO: The Commissioner has referred your August 17 letter to me concerning upgrade of the Commonwealth of the Northern Mariana Islands (CNMI) immigration electronic data system, incorporating identification (ID) technology and issuance of secure ID cards. We will be happy to support your project with technical assistance, to the extent that our resources allow. Jerry Webster, of my staff, can continue to be the principal point of contact. As he and John Tautfest explore your requirements, Jerry may involve other Immigration and Naturalization Service (INS) technical support and operational managers.

We look forward to providing meaningful assistance to the CNMI.

Sincerely,

RONALD W. COLLISON,  
*Associate Commissioner.*

## APPENDIX II

### Additional Material Submitted for the Record

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#### STATEMENT OF HON. JUAN N. BABAUTA, RESIDENT REPRESENTATIVE TO THE UNITED STATES FROM THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to submit testimony.

#### THE REASON FOR LOCAL IMMIGRATION CONTROL

Twenty years ago representatives of the Northern Mariana Islands negotiated political union with the United States. One unique aspect of this union was contained in section 503(a), which provided that, although part of the United States, the Commonwealth of the Northern Mariana Islands (CNMI) would exercise control of immigration across its own borders.

Our negotiators asked for local control of immigration against a specific historical background. During the Japanese colonial period preceding the American takeover of our islands, the indigenous population had been a minority. Local people were outnumbered three to one by Okinawans, Japanese, and Korean immigrants who came to work, mainly, in the sugar industry. Outsiders held almost complete economic and political power, a situation we did not want repeated.

As we negotiated the Covenant, we perceived that our islands could again be flooded with immigrants if the United States controlled our borders. We looked south to Guam, where thousands of refugees had fled after the fall of South Vietnam. For the most part these people did not stay. But it was clear that U.S.-controlled immigration could leave the Northern Marianas vulnerable to a similar influx. Our islands were simply too close to huge populations of economically and politically disadvantaged Asians. We needed to protect ourselves from their potential entry.

So the Covenant we reached with the United States gave us control of immigration to our islands. We looked to this control, and a related provision that allowed only persons of Northern Marianas descent to own land, as a mechanism by which we could protect the integrity of our indigenous culture.

#### THE RESULT OF LOCAL CONTROL

In 1994, however, the indigenous people of the CNMI are outnumbered by immigrants, despite the Covenant provision giving us control of our borders.

The unrestricted immigration the CNMI has permitted began in response to the argument that our local labor pool was insufficient in numbers and skills to meet the needs of economic development.

The garment industry first made this argument. This industry came to the CNMI in the mid-1980s, realizing that the preferential customs treatment extended by the U.S. to goods made in its territories, the Marianas' low wage structure, and a favorable tax system combined to create the potential for significant profit. Some 5,000 immigrants are now employed as garment workers.

Under the same premise of the insufficiency of local labor, a second significant population of immigrants was brought in for the tourism sector of our economy. The declining value of the dollar, Japanese enthusiasm for overseas real estate investment, and a loosening of currency restrictions for citizens of newly-prosperous Asian nations contributed to the growth of tourism. For this industry, too, low wages and taxes in the CNMI have been attractions. Approximately 3,000 immigrants now work in the tourism sector.

As the economic convenience of low wage workers became apparent over the last decade, their easy availability under the CNMI's immigration policy created new demand for these workers unrelated to the needs of conventional economic developments, such as the resort industry or the manufacture of garments. Immigrants

began to be brought in as domestics for private households, as farm laborers, and as construction workers. Local law exempted employers from paying even the low CNMI minimum wage of \$2.15 to these categories of workers.<sup>1</sup> Eventually, at least 7,000 immigrants were employed in these occupations.

A fourth, significant cohort of immigrants came to the CNMI from the Federated States of Micronesia, the Republic of the Marshall Islands, and the United Nations trust territory of Palau. These immigrants, approximately 4,700, came from the islands of Micronesia where employment opportunities are relatively scarce, attracted by the burgeoning CNMI economy. Unlike the immigrant populations described above, the Micronesian immigrants were not subject to CNMI control; their right of entry arose from the Compacts of Free Association or the terms of the United Nations trust agreement with the United States.

To summarize the situation: of a 1993 CNMI population of 57,513 less than half (25,862) are indigenous people or other U.S. citizens. The rest of the population is composed of immigrants. So the promise of Covenant section 503(a) to protect the indigenous people of the Northern Marianas from being inundated in a flood of outsiders has not been kept. Instead, local control of immigration has been used to allow virtually unrestricted entry of alien workers into the CNMI. The rationale has been that a limited pool of labor in the Northern Marianas would have precluded economic development and that economic development is, without exception, beneficial and the public policy of choice.

#### ECONOMIC, SOCIAL, AND POLITICAL EFFECTS OF THE IMMIGRANT POPULATION

If the unrestricted immigration policy of the CNMI had, in fact, been completely beneficial, then perhaps the loss of majority status for the indigenous people would have been justified and tolerable. But the latest and best analysis of the fiscal effect of aliens on the CNMI government indicates clearly that these immigrants have a net negative impact. This is the case because these immigrants earn little and thus pay little in income tax, and because the businesses that employ these aliens, though in many cases highly profitable, receive very favorable treatment under the current CNMI tax system.

While the conventional wisdom is that further expansion of the economy, the addition of new hotels, for instance, is necessarily beneficial, the opposite is actually true. Every new development that requires alien labor for construction or operation reduces the solvency of the CNMI government and takes away the government's ability to provide services and facilities for the indigenous population that economic development is supposed to serve.

This need not be the case. Raising the minimum wage, enacting income tax reform, and establishing developer fees that fully cover the infrastructure costs of new development, are policies that would begin to reverse the negative fiscal impact of the CNMI's current unrestricted immigration policy.

However, these policy changes would only help mitigate the negative economic consequences of our current immigration policy. There are social and political consequences of this policy as well; and these effects, too, must be recognized and addressed.

The continuing revelations of labor law violations and civil rights abuses in the CNMI, that began attracting national attention in 1992 but which have been commonly reported in the CNMI since the mid-1980s, are symptomatic of the social ills that have come along with the open door immigration policy. It should come as no surprise that under a system in which immigrants are maintained as an economic underclass without political rights and with severely limited legal rights, acts of individual exploitation will occur. People who are forced by economic circumstances in their own countries to find work overseas, who are confronted by a new language and an unfamiliar legal system are highly vulnerable to coercion, both physical and psychological.

America is a nation built of immigrants. Even today our borders are open to an extent unmatched by any other country. But the situation in the Northern Marianas is materially different than that which contributes to the strength and resilience of our national economy and culture. Immigrants who come to America have the ability to improve their economic circumstances; they can be free economic agents. In the Marianas, immigrants are constrained to work for certain employers or within certain sectors of the economy; they are locked in to poverty. Immigrants who come to America can obtain citizenship and all the political rights that come with citizen-

<sup>1</sup> CNMI minimum wage law was amended in 1993. The current minimum wage for construction workers is \$2.45. Farmers and domestics are paid a minimum of \$2.00/month with overtime payable for time over 72 hours in one week.

ship. In the Marianas immigrants have no direct path to personal political power; no matter how long they reside in the Marianas, they will always be disenfranchised.

These immigrants can, however, give birth to children, who by reason of place of birth are U.S. citizens and who will, when they achieve their majority, come to have the full exercise of that citizenship. Herein lies a consequence of the CNMI's unrestricted immigration policy that should be of grave concern to the indigenous population and is also a matter, I believe, for federal concern. Last year, approximately three thousand children were born to aliens in the CNMI. This a birth rate at least twice that of the indigenous population. It is a simple exercise in arithmetic to demonstrate that at this rate within a generation the children of aliens will have significant political power. These new voters will have grown up under social and economic circumstances that are likely to leave them resentful and ready to instigate change. I have no doubt that one early goal of this bloc of voters will be revocation of the limitation of land ownership to indigenous persons.

In our rush to improve our economic circumstances, the people of the Northern Marianas have created a situation which will end in the loss of control of our own home. I view this as a tragedy. But it will be even more tragic if this exchange of indigenous control for something perceived as more valuable occurs without a conscious decision on our part. And I believe we have yet to fully acknowledge that our current immigration policy necessarily commits us that exchange.

#### SOLUTIONS

One reason we have not reached that understanding may be the lack of sufficient, accurate information from which to extrapolate the consequences of our policy. Senator J. Bennett Johnston has recently proposed earmarking \$7 million of fiscal year 1995 Covenant funds to provide technical assistance and training, computers and other control technology that would give the CNMI a much better statistical picture of the aliens who are entering and leaving the Commonwealth and the purposes for which they are there.

I have always maintained that CNMI control of immigration is an important hallmark of our self-government and that we should retain that power. Therefore, as much as I appreciate the concern that led to Senator Johnston's proposal I must say that it would be more appropriate for the CNMI itself to make the expenditure of \$7 million, or whatever amount is needed, to provide for the improvements in our technical capacity to manage immigration. Such an investment by the CNMI will guarantee our commitment to resolving the immigration problem.

Using CNMI funds to buy the tools of immigration reform will also avoid the situation in which Covenant funds would once again be used for government operations. We have previously agreed to an end to that dependency and we should not go back on our agreement. Covenant funds should be used solely for capital improvements. There are more than enough such needs for basic infrastructure—particularly on the islands of Rota and Tinian—to use all \$27.7 million which should be appropriated for fiscal year 1995.

I do encourage, however, continued federal scrutiny and involvement in the alien labor situation in the Northern Marianas. The wage and hour actions by the U.S. Labor Department against certain garment factories two years ago, follow-up actions by the Occupational Safety and Health Administration, and the House Interior Committee hearings on those matters clearly resulted in the industry taking actions to improve. I hope that today's hearing will have a similar beneficial effect and lead to the CNMI taking action on the problem of immigration.

I also continue to support, as I have in previous communication to Secretary Reich and in testimony to the House Ways and Means Committee regarding H.R. 997,<sup>2</sup> an expanded federal presence in the CNMI to enforce applicable federal law. The people of the Northern Marianas chose to become part of the United States in part to secure for ourselves the benefits and protections of America's legal system. We want all federal laws to be enforced in the CNMI with the same fervor they are enforced in the rest of our nation.

Finally, we must enforce existing CNMI law without hesitation; and we must enact new laws that further protect the rights of labor. The minimum wage must go up. Nonresident alien workers must have unrestricted access to the judicial system and must be shielded from retribution for taking advantage of that access. And

<sup>2</sup> Introduced by Rep. Lewis F. Payne, Jr. to amend General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States to deny special tariff treatment to goods of the Commonwealth of the Northern Mariana Islands unless certain conditions are met, to require the Secretary of Labor to assign a full-time resident compliance officer to the Commonwealth of the Northern Mariana Islands, and for other purposes.

persons who violate immigration and labor laws must be subject to penalties that are a meaningful deterrent.

#### COMPACT STATE IMMIGRANTS: A SPECIAL CASE

Earlier, I noted that immigrants from states that have entered into compacts of free association with the United States comprise a significant portion of the CNMI's alien population. This is a group with whom the people of the Northern Marianas share many historical, cultural, and familial ties. As a consequence, these immigrants are not generally subject to the kind of overt abuse that has been directed at other aliens. Nevertheless, the fiscal impact on the Commonwealth government of these Compact immigrants is negative. Their net cost to the CNMI was estimated to be about \$4.5 million last year.

Unlike the immigrants who are allowed into the Northern Marianas as a function of the CNMI's own immigration control, immigrants from the freely associated states are free to enter under terms of the Compacts with the United States. Recognizing that unrestricted immigration from the Compact states could have an adverse fiscal impact on U.S. Pacific territories, Congress has enacted a statute requiring the Executive Branch to report annually the amount of this impact. And Congress has authorized mitigating payments to the territories. Unfortunately, the Office of Territorial and International Affairs in the Department of the Interior, which was delegated responsibility for this annual report has never submitted one to Congress. Congress has, over the last two years, appropriated \$2 million to offset the Compact impact on the Mariana Islands—\$1.2 million for Guam and \$800,000 for the CNMI—but both jurisdictions maintain that this sum is much less than the real cost of government-provided services for Compact immigrants.

There seems no better time to bring this matter before the Senate than today's oversight hearing on immigration. I encourage this Subcommittee to find out why the Executive Branch continues to avoid its statutory responsibility to report to Congress.

#### THE RELATIONSHIP BETWEEN THE CNMI AND THE UNITED STATES

I cannot and will not defend the system of labor we have allowed to arise in the Northern Marianas. It is a system that exploits the poverty of our neighbors in the Philippines for the enrichment of business interests in the CNMI. It is a system that justifies itself by saying that labor conditions that are unfair in the Marianas are permissible because they are less unfair than conditions elsewhere.

The people of the Northern Marianas are, by and large, good and decent, and respect the rule of law. While it is clear that labor abuse is all too common, I do not believe that it is "routine" or "a way of life," as recent media reports have said. Nevertheless, as United States citizens, we in the Northern Marianas have to hold ourselves to a high standard. We will do so. And we can do so, without jeopardizing our own economic well-being.

The financial support the U.S. Congress has provided us over the last twenty years should have helped the Northern Marianas to develop economically without having to experience the socio-economic inequities that are often characteristic of developing states. When the United States agreed to help us raise our standard of living to match the rest of the nation, I believe there to have been an implicit agreement on both our parts that the Northern Marianas would operate its economy in a manner reflecting the values, as well as the affluence, of American society.

When water and sewer lines are run to every household, what we are saying is that everyone has a right to a basic level of health. When we provide schooling for every child, what we are saying is that everyone has a right to knowledge and the power that comes with knowledge. When we commit to building an infrastructure that fosters economic development, we are saying that everyone has the right to gainful employment or entrepreneurial opportunity so as to be able to enjoy the benefits of prosperity.

But in the Northern Marianas some have forgotten these values in the rush to affluence. Instead of a "commonwealth," our islands have become a place where there are economic tiers, with virtually no way for persons on the lowest levels to move up.

A Washington Post story of August 3 referred to the nonresident alien workers in the Commonwealth as a "politically powerless underclass." They are. And as long as any members of a society are kept in a state of political powerlessness we have a situation that flies in the face of our American values.

But this situation is not unique. The people of the Marianas—U.S. citizens and aliens alike—are all politically powerless within this very Congress. We have no representation here. We are members of a nation that is founded on the principle

of democracy, yet ignores that principle with respect to the 57,500 people living in the Northern Marianas and the four million people living in all the non-state areas. When will this nation put aside the 19th century colonial thinking that perpetuates the political powerlessness of these people? When will we see that the attitude that "Congress can do whatever it wants to you"—an attitude expressed to me time after time in the five years I've represented the Northern Marianas here in Washington—simply feeds the thinking of those in the Northern Marianas who believe that their political power entitles them to do whatever they want to Filipino workers. Ultimately, the microcosm reflects the macrocosm.

Thank you for the opportunity to submit testimony.

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#### STATEMENT OF KATHLEEN M. HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS

Chairman Akaka and members of the subcommittee, I appreciate the opportunity to provide this statement to you. This statement will address the issue of how the Department is approaching detention needs in the Commonwealth of the Northern Mariana Islands.

During the last 13 years, the Federal detainee population of the U.S. Marshals Service (USMS) has exploded from almost 4,000 in 1981 to almost 18,000 today. To address this issue and projected future detention requirements, the Federal Bureau of Prisons (BOP) and the USMS have established a close working relationship to determine the most crucial detention needs through 1996. The Immigration and Naturalization Service (INS) has also been involved in this planning process, as INS requires bed space for criminal aliens awaiting deportation and Mariel Cuban detainees.

To meet these detention needs, these agencies agreed to follow a policy of increasing capacity through a cost-effective, sequential process, using the following detention resources:

- maintaining and obtaining additional State and local beds, through the use of Intergovernmental Agreements;
- aggressively pursuing a Cooperative Agreement Program (CAP) throughout the country (this is a program where funds are given to a local or State facility to help finance new jail construction or facility renovation in return for the contractual guarantee of a number of bed spaces for later Federal use);
- where appropriate, looking to the private sector to finance, construct, and operate private jail space to be acquired on a contractual basis; and
- expanding Federal detention capacity by establishing or constructing detention housing at existing Federal prisons and constructing Metropolitan Detention Centers.

Representatives from the BOP, USMS, INS, Department of Justice budget staff, and the Administrative Office of U.S. Courts hold monthly meetings to review detention needs and implement the plan outlined above.

The Bureau of Prisons only builds detention facilities where there are large levels of Federal detainees—usually major cities like Chicago, San Diego, New York, Los Angeles. The USMS normally contracts for detention space to house detainees in those locations where there are small numbers of offenders.

Currently, neither INS nor BOP has a need for any detention or prison beds in the Commonwealth of the Northern Mariana Islands. Of the 94,000 prisoners in BOP custody, only 17 are from Guam and there are none from the other Mariana Islands. The INS typically has less than five detainees at any given time in the Commonwealth. The BOP could provide technical assistance if requested, to the CNMI Islands if the CNMI government decides to build and operate their own prisons.

The USMS, however, does have a need for a limited number of detention beds in Guam, and currently has approximately 20 prisoners confined in a local facility in Guam pursuant to an intergovernmental agreement. The USMS would like to expand that capacity, and, in accordance with the above detention plan, is discussing a Cooperative Agreement with officials from Guam.

Thank you for the opportunity to share the Bureau's views on this important issue. Please feel free to contact me for answers to any questions you or the members of the Subcommittee may have.

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE DEPARTMENT OF LABOR AND EMPLOYMENT  
OF THE REPUBLIC OF THE PHILIPPINES  
AND  
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN CONSIDERATION OF THE CORDIAL RELATIONS EXISTING BETWEEN THE TWO GOVERNMENTS, BOTH PARTIES THROUGH THEIR RESPECTIVE REPRESENTATIVES HEREBY AGREE ON THE PURPOSES AND OBJECTIVES SET FORTH HEREUNDER, TO WIT:

THE COMMONWEALTH OF NORTHERN MARIANA ISLANDS (CNMI) AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES THROUGH THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) SHALL WORK COLLECTIVELY TO PROMOTE AND STRENGTHEN AREAS OF COOPERATION IN THE FIELD OF LABOR, EMPLOYMENT AND MANPOWER DEVELOPMENT.

BOTH PARTIES AGREE TO REGULARLY COMMUNICATE, EVALUATE AND EXCHANGE INFORMATION ON LABOR MATTERS FOR THE PURPOSE OF IMPROVING EMPLOYMENT RELATIONS AND LABOR ADMINISTRATION BETWEEN THE TWO GOVERNMENTS.

THE CNMI SIONIFIES ITS INTEREST TO HIRE, PURSUANT TO ITS LAWS AND THROUGH DULY ACCREDITED PHILIPPINE RECRUITMENT OR PLACEMENT AGENCIES, FILIPINO WORKERS FOR GAINFUL EMPLOYMENT IN THE COMMONWEALTH. THE PHILIPPINE GOVERNMENT EXPRESSES ITS DESIRE TO ASSIST THE CNMI IN ITS ECONOMIC DEVELOPMENT BY WAY OF PROVIDING THE LATTER WITH ITS MANPOWER NEEDS.



THE CNMI SHALL EXERT UTMOST EFFORTS TO GUARANTEE OBSERVANCE OF ITS APPLICABLE LABOR AND EMPLOYMENT LAWS AND EMPLOYMENT CONTRACT STIPULATIONS FOR THE PROTECTION OF FILIPINO CONTRACT WORKERS THEREAT. THE PHILIPPINE GOVERNMENT THROUGH DOLE, ON THE OTHER HAND, SHALL ENSURE THE DEPLOYMENT OF QUALIFIED FILIPINO WORKERS TO PROTECT THE INTEREST OF EMPLOYERS IN THE COMMONWEALTH. THE RECRUITMENT OF CONTRACT WORKERS FROM THE PHILIPPINES SHALL BE GOVERNED PURSUANT TO THE RULES AND REGULATIONS OF BOTH GOVERNMENTS ON THE EMPLOYMENT OF FILIPINO OVERSEAS CONTRACT WORKERS.

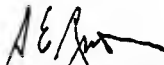
A CNMI-PHILIPPINE LIAISON OFFICE SHALL BE ESTABLISHED IN MANILA TO FOSTER CLOSE WORKING RELATIONS WITH THE PHILIPPINE DEPARTMENT OF LABOR AND EMPLOYMENT TO ENSURE THAT BOTH COMMONWEALTH AND PHILIPPINE EMPLOYMENT LAWS WILL BE COMPLIED WITH. LIKEWISE, DOLE WILL ESTABLISH A FILIPINO WORKERS DEVELOPMENT CENTER ATTACHED TO THE PHILIPPINE CONSULATE OFFICE IN THE CNMI TO PROMOTE AND ENSURE THE WELFARE AND PROTECTION OF FILIPINO OVERSEAS CONTRACT WORKERS.

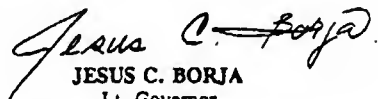
AFTER THE FORMAL ADOPTION OF THIS MEMORANDUM OF UNDERSTANDING BY BOTH PARTIES, NO FILIPINO WORKER WILL BE INITIALLY EMPLOYED IN THE CNMI WITHOUT HAVING BEEN PROCESSED BY THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA). FURTHERMORE, THE CNMI GOVERNMENT WILL ASSIST THE PHILIPPINE GOVERNMENT THROUGH THE DOLE AND THE PHILIPPINE CONSULATE IN REACHING OUT TO CNMI DOCUMENTED WORKERS, WHO ARE CURRENTLY EMPLOYED IN THE COMMONWEALTH WITHOUT THE BENEFIT OF THE PHILIPPINE GOVERNMENT'S CLEARANCE BY REQUIRING THEM TO BECOME FULL-FLEDGED MEMBERS OF THE OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA).

BOTH GOVERNMENTS SHALL MAKE A PERIODIC REVIEW ON THE IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING AND RECOMMEND NECESSARY IMPROVEMENT(S) FOR THEIR MUTUAL BENEFIT.

NOW, THEREFORE, THE CNMI AND DOLE DO VOLUNTARILY AND WILLINGLY ENTER INTO THIS MEMORANDUM OF UNDERSTANDING AND WILL HEREAFTER PROMULGATE THE IMPLEMENTING GUIDELINES IN ORDER TO FORM AN EFFICIENT AND MUTUALLY BENEFICIAL WORKING RELATIONSHIP BETWEEN THEIR RESPECTIVE GOVERNMENTS.

SIGNED THIS 14<sup>th</sup> DAY OF SEPTEMBER 1994 IN MANILA, PHILIPPINES.

  
BIENVENIDO E. LAGUESMA  
Acting Secretary of Labor  
and Employment  
Republic of the Philippines

  
JESUS C. BORJA  
Lt. Governor  
Commonwealth of Northern  
Mariana Islands



Consulado ng Pilipinas

Philippine Consulate

Saipan

STATMENT

Regarding the Washington Post article, the Philippine Consulate has been apprised of certain complaints of Filipino workers, as well as violations in the provisions of contract employment committed against workers from the Philippines in Rota. We have been made aware of these by individuals and various groups alike, and are evaluating the facts of these cases. As a normal procedure, complaints received were assisted by the Consulate. Proper representations with the Department of Labor and other concerned agencies are being done.

The Philippine Consulate acknowledges the action being done by the CNMI Government. The present on going investigation being conducted by the Task Force created by Governor Froilan C. Tenorio to give action on the allegations, enabled the complainants mentioned in the news article to be given work transfer permits and find employment. The Consulate was already informed by some complainants of nonpayment of wages, and are now getting settlement payment. The rest of the cases however, are still being resolved by the labor hearing officers. Numerous consultations with CNMI and Philippine authorities are being made, with the aim of providing safeguards for both employee and employer. Labor investigators are in close communication with our office.

The efforts of the CNMI Government to look into the labor situation, investigate the parties concerned, and make the necessary regulations to improve the recruitment, minimum wage, living conditions and uphold the rights of the workers are acknowledged and appreciated. Labor officials in the Philippines were informed that the CNMI government is committed to improving the situation. It is unfair to generalize all employers as it affects the good ones and those workers who are treated well and fairly.

On the part of the Philippine Government, there are already ways and means being implemented to eliminate illegal recruiting, and leaving the Philippines without the proper qualification and documentation as well as orientation. Along this line the CNMI Government has already imposed regulations to discourage illegal and undocumented Filipino workers who are vulnerable in abuses. This matter has been relayed to the Philippines to forewarn prospective workers.

I am sure that the official one-week visit and discussion of Commerce & Labor Secretary Peto dela Cruz and Labor Chief Osmundo Santos, with RP Labor Secretary Nieves Confesor, POEA Administrator Felicitimo Josen and OWWA Administrator David Curpin, will come a long way towards addressing the concerns in Rota and other labor matters. We recognize the existence of the problem. We recognize the steps and measures taken by the CNMI Government and from our end preventive measures are also being undertaken.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO  
Governor

JESUS C. BORJA  
Lt. Governor

Capital - J

Saipan, MP 96150

Telephone (670) 322-5091 -3

Fax (670) 322-5396

16 FEB 1994

The Honorable William Jefferson Clinton  
President of the United States  
of America  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear Mr. President:

The citizenship and immigration provisions of Sections 303 and 506 of the Covenant have been a continuing cause of misunderstanding since the establishment of our Commonwealth. Not only have federal and Commonwealth of the Northern Mariana Islands (CNMI) interpretations varied, but federal interpretations themselves have changed over time. This has led to uncertainty among the people affected and unnecessary contention between our governments.

Section 303 of the Covenant extends U.S. citizenship to "All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States". The U.S. Immigration and Nationality Service (INS) has interpreted this to include newborn children of nonresident workers. The INS also registers as U.S. citizens children born in the Commonwealth of a Micronesian, Marshallese, or Palauan parent resident in the Commonwealth pursuant to the Compact of Free Association or Trusteeship Agreement.

Whether or not these interpretations are correct, they clearly were not what was understood and anticipated by the CNMI Covenant negotiators. Children of nonresident workers were not discussed as potential citizens under Section 303 in the official joint Section-by-Section Analysis, which explained the Covenant to our people before they voted to approve it. Neither were children of the former Micronesian Islands discussed. In fact, the Compact had not yet even been negotiated, so we had no idea that we would be mandatory host to so many of our island neighbors.

Over the years, this has had a negative effect on our socio-economic development. Also, the provision of welfare and other services to many of these new citizens and their families has resulted in a significant drain on our budgetary resources. Although the Federal Government has recently appropriated \$400,000 to offset the drain, this does not come close to reimbursing us for our total costs.

A related problem involves Section 506 of the Covenant. Under the first sentence of this section, the INS for years provided "green cards" to immediate relatives of U.S. citizens permanently residing in the Commonwealth, regardless of when such citizenship or residence was established or when the immediate relative relationship began.

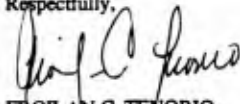
Perhaps because we have so many unintended new citizens as discussed above, the INS recently has suspended processing immediate relative petitions from U.S. citizens permanently residing in the CNMI. Reportedly, the INS is considering the applicability of language later in Section 506 limiting certain permanent CNMI residents on the effective date of that section. Although this may be desirable regarding immediate relatives of the nonresident newborns discussed above, it could cause real hardship to the families of our indigenous people and other Americans from elsewhere in the United States.

Regardless of what may be the best policy on each of these matters, it is imperative that we first share a definitive understanding of the current Covenant language. If there is then a need to make adjustments, we can at least start from a common base.

Both of these important issues affect the relationship between the CNMI and the United States. Therefore, pursuant to Section 902 of the Covenant, I hereby designate Mr. Vicente T. Salas, a prominent local attorney, to serve as my special representative to meet with your representative to consider citizenship and immigration issues arising under Sections 303 and 506 of the Covenant. I ask that your special representative be designated at your earliest convenience and that they meet as soon as possible.

These are issues that I believe can be resolved relatively easily in a spirit of good faith and cooperation. I continue to look forward to working with you and your administration for the benefit of all Americans.

Respectfully,



FROILAN C. TENORIO



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

May 17, 1994

The Honorable Froilan C. Tenorio  
 Governor  
 Commonwealth of the Northern Mariana Islands  
 Capitol Hill  
 Saipan, MP 96950

Dear Governor Tenorio:

President Clinton has asked that I respond to your letter regarding immigration issues in the Commonwealth of the Northern Mariana Islands.

The first issue you raised concerns the interpretation of Section 303 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands ("Covenant"). This section provides that

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

You have suggested that this Section should not be applied by the United States Immigration and Naturalization Service (INS) to children born of nonresident workers, and to those born of Micronesian, Marshallese, or Palauan parent residents in the Commonwealth pursuant to the Compact of Free Trusteeship Agreement.

A review of the language of Section 303 and the Section-by-Section analysis which was published in the Commonwealth prior to the plebiscite on the Covenant indicates that application of Section 303 to these persons is correct. Nothing in the legislative history of Section 303 indicates that it was intended to exclude from U.S. citizenship children born of nonresident workers and of aliens from the Marshall Islands, Micronesia, and Palau. Therefore, the INS must continue to register such children as United States citizens.

The second issue you raised concerns the application of Section 506(c) of the Covenant, which pertains to immigration to the Commonwealth by immediate relatives of United States

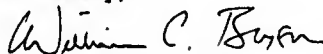
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citizens. You expressed concerns that INS was considering limiting applications for immediate relative status only to those persons who had such status at the time that the Covenant became effective. The INS recently declined to adopt this interpretation of Section 506(c), and has determined that an immediate relative of a United States citizen who lives in the Commonwealth may acquire permanent relative status and naturalization, in accordance with the Immigration and Nationality Act, regardless of when he or she acquired immediate relative status. Since the issuance of an INS opinion to this effect in February 1994, the INS District Director has resumed processing immediate relative petitions from U.S. citizens permanently residing in the Commonwealth.

I welcome an opportunity to have my staff meet with your representative in Washington, Mr. Vicente T. Salas, to discuss these and any other immigration-related issues regarding the Commonwealth. I have asked Phyllis A. Coven, Deputy Associate Attorney General, to contact Mr. Salas to arrange such a meeting.

Thank you for your letter, and do not hesitate to contact me regarding any future issues that may arise.

Sincerely,



William C. Bryson  
Acting Associate Attorney General

cc: The Attorney General  
The Deputy Attorney General

THE WHITE HOUSE  
WASHINGTON

June 23, 1994

The Honorable Froilan C. Tenorio  
Governor, Commonwealth of the Northern  
Mariana Islands  
Saipan, MP 96950

Dear Governor Tenorio:

The President has asked me to respond to your letters of January 22 and February 16 requesting the designation of a special representative to consult on matters affecting the relationship between the United States and the Commonwealth of the Northern Mariana Islands.

The consultation process established under section 902 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States can provide a useful forum for identifying potential solutions to matters of mutual concern to the CNMI and the United States. I understand that you wish to begin consultations on the role of the CNMI Washington representative and on certain citizenship/immigration issues.

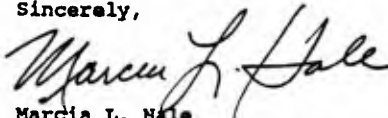
I have been advised that the citizenship issue arising from section 506 of the Covenant has been resolved favorably by the Immigration and Naturalization Service. With regard to the issue of denying and/or limiting U.S. citizenship status to children born to alien workers residing in the CNMI, the Administration believes that this matter can and should be addressed outside the 902 consultation process. A federal inter-agency team composed of representatives of the Department of Justice, in consultation with the Departments of the Interior and State, is better suited to address the constitutional, legal, and other implications of your request for a change in the citizenship laws, and we have asked them to do so.

*Review by 6/24/94  
Copy to Mr. AB  
EAG*



The role of the CNMI Washington representative is thus the remaining issue for which you have requested 902 consultations. This request is under review by the Administration, and we will let you know as soon as a decision has been made.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marcia L. Hale".

Marcia L. Hale  
Assistant to the President for  
Intergovernmental Affairs

cc: Nancy Fanning, Territorial and International Affairs,  
Department of the Interior  
Eric Schwartz, NSC  
Keith Mason, Deputy Assistant to the President and  
Deputy Director of Intergovernmental Affairs



## United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

23 AUG 1994

The Honorable Froilan C. Tenorio  
Governor of the Commonwealth of the  
Northern Mariana Islands  
Saipan, MP 96950

Dear Governor Tenorio:

This is a follow-up to your letter of February 16, 1994, and the response dated June 23, 1994, from Marcia Hale, Assistant to the President for Intergovernmental Affairs at the White House. Your letter inquired whether children born in the Commonwealth of the Northern Mariana Islands (CNMI) to persons not domiciled there, especially to temporary workers, and to citizens of the Freely Associated States of the Marshall Islands and the Federated States of Micronesia, are citizens of the United States. Your letter went on to say that, regardless of what may be the best policy on the matter, you believed we first must share an understanding of the current Covenant language.

In accordance with Ms. Hale's letter, an interagency team composed of members of Justice, Immigration and Naturalization Service, State, and Interior, recently met to examine this issue. The team believes the relevant sections of the Covenant on this question are Sections 303 and 501(a).

Section 303 of the Covenant states:

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

Section 501(a) states:

To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States:...Amendment 14, Section 1....

Amendment 14, Section 1, of the United States Constitution states:

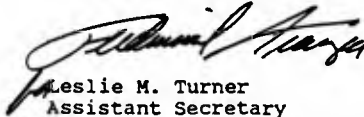
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

*Rec 9/2/94  
CAG  
EAG  
D*

The team came to the conclusion that all persons born in the CNMI are citizens of the United States with the exception of the children of persons enjoying extraterritorial status, such as accredited diplomats. The team arrived at this conclusion on the basis of longstanding judicial precedent and by virtue of agreement under Section 303 and by applicability of the U.S. Constitution under Section 501(a).

We trust this is helpful. We would, of course, be pleased to discuss your concerns regarding this issue, as well as our interpretation, with you or your designated representative.

Sincerely,



Leslie M. Turner  
Assistant Secretary  
Territorial and International Affairs



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO  
Governor

JESUS C. BORJA  
Lt. Governor

Capitol Hill  
Saipan, MP 96950  
Telephone: (670) 322-5091 -3  
Fax: (670) 322-5096

6 SEP 1994

Ms. Marcia L. Hale  
Assistant to the President for  
Intergovernmental Affairs  
The White House  
Washington, DC 20500

Dear Ms. Hale:

This is in response to your June 23 letter and the follow-up letter dated August 23, 1994, from Leslie M. Turner, Assistant Secretary of the Interior for Territorial and International Affairs. Your letter suggested that my request for consultations pursuant to Section 902 of the Covenant regarding citizenship issues be referred to a federal inter-agency team. Assistant Secretary Turner's letter addressed the substance of the issue and informed me that the team had concluded that the Covenant required that American citizenship be extended to all persons born in the Commonwealth except "children of persons enjoying extraterritorial status, such as accredited diplomats."

This interpretation, and its negative effect on our indigenous population and our economy, are exactly the reasons I requested the appointment of special representatives. It is not the end of the matter; it is the beginning. What we are looking for are recommendations on how to solve the problems that this interpretation is causing.

I should like to renew my request that this issue be handled by consultation under Section 902. If the President's special representative desires the support of an inter-agency team for such purposes, that is his prerogative, and we will cooperate in every way.

I would very much appreciate your confirmation that the President has selected Mr. Cohen as his special representative to consult on immigration and citizenship issues as well as on the role of the Resident Representative to the United States. We would like to begin consultations on both matters at the earliest possible date.

Sincerely,

FROILAN C. TENORIO



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**FROILAN C. TENORIO**  
Governor

**JESUS C. BORJA**  
Lt. Governor

Capitol Hill  
Saipan, MP 96950  
Telephone: (670) 322-5091 -3  
Fax: (670) 322-5096

19 7 AUG 1994

Honorable Doris Meissner  
Commissioner  
Immigration and Naturalization Service  
U.S. Department of Justice  
425 Eye Street, N.W.  
Washington D.C. 20536

Dear Ms. Meissner,

The Commonwealth of the Northern Mariana Island's (CNMI) Immigration Service is currently under review so that its overall function can be improved. We are planning to significantly upgrade Immigration's electronic database and install a comprehensive computer network. Another key element in this project is to acquire the ability to annually issue secure identification cards to all non-resident aliens residing in the CNMI. It would be of great help in this project if my office could have access to technical assistance from the U.S. Immigration Service.

John Tautfest, Special Assistant for Policy and Research, is responsible for the implementation of the changes at Immigration. Mr. Tautfest has been in contact with Jerry Webster, Field and Program Management Staff, to identify the names of possible vendors of secure ID cards/systems. We are now at a critical design phase of this project, and the in-depth technical support that INS has would greatly aid us in the integration of all of the varied components into our electronic data system.

With your approval, Mr. Tautfest will continue to use Mr. Webster, and the Field and Program staff, as a resource.

Thank you for your assistance on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FROILAN C. TENORIO  
Governor

JESUS C. BORJA  
Lt. Governor

Capital Hill  
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Fax: (670) 322-5096

11 JUL 1994

Ms. N.K. "Sam" Finn, Regional Director  
Honolulu Passport Agency  
PJJK Federal Building  
Box 50185  
Honolulu, HI 96850

Dear Ms. Finn:

As you know, the re-organization of the Commonwealth of the Northern Mariana Islands (CNMI) Government that we had envisioned is being realized. Many changes have already been made and others are ongoing. To that end, I will be moving the CNMI Passport Office from the Immigration Office (INO) to the Office of the Governor. I have designated the Special Assistant for Administration to be responsible for its operations. Mr. Joaquin (Mitch) L. Pangelinan, will report directly to me.

Your assistance in documenting U.S. citizens resident in the CNMI has been superb over the years. Since there will be some personnel and procedural changes with this move, we are again requesting your expert advice. Accordingly, I am inviting you to come to Saipan at a mutually convenient time to work with us in implementing this change. We wish to ensure a smooth transition and to provide additional training for all Northern Marianas passport agents if necessary. The employees from Rota and Tinian will also participate in the training exercises.

The Office of the Governor will prepare travel orders for you to include roundtrip airfare from Honolulu to Saipan and lodging for the duration of your visit. I look forward to seeing you again and am confident that, with your assistance, our Passport Office will become the most efficient in the region.

Sincerely,

FROILAN C. TENORIO



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**FROILAN C. TENORO**  
Governor

**JESUS C. BORJA**  
Lt. Governor

Capitol Hill  
Saipan, MP 96950  
Telephone: (670) 322-5091-13  
Fax: (670) 322-5096

March 1, 1994

The Honorable Robert B. Reich  
Secretary of Labor  
U.S. Department of Labor  
Washington, D.C. 20210

Dear Mr. Secretary:

As you are no doubt well aware, the Commonwealth of the Northern Mariana Islands (CNMI) has been plagued with serious labor problems for several years, particularly with respect to nonresident workers in the garment manufacturing industry.

My administration already is taking steps to resolve these problems, and I would like to suggest a further solution involving your department.

On January 18, 1994, after only a week in office, I submitted a proposed bill to the Legislature to raise the general minimum wage in the CNMI to the \$3.35 per hour on January 1, 1995, and to the current U.S. minimum of \$4.25 per hour, effective January 1, 1996. Thereafter, the CNMI minimum wage would track the federal figure. The \$4.25 minimum wage would take effect for garment manufacturers in a single step one year earlier on January 1, 1995.

In addition, I have just authorized the expenditure of matching funds so that the Northern Marianas College can provide an OSHA on-site consultation program to our local businesses--including many of the garment factories.

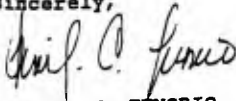
We are also seeking ways to increase the proportion of local residents working in these factories.

As you see, we are serious about doing something about this problem. Now we need some help from you. Unlike Guam, we have no authority to enforce federal labor laws. Indeed, we are barely able to enforce our own. I invite and urge you to establish an office of the U.S. Department of Labor in the Commonwealth. Not only will your representatives be able to enforce federal labor laws and regulations on a consistent basis, but they could advise us on strengthening our own laws and regulations and help train our enforcement officials.

I would also like to take this opportunity to invite you to visit the Commonwealth at your earliest convenience. I promise you a warm welcome both from our people and our climate, and a very interesting time on our beautiful islands. Please let me know personally when this might be possible.

I look forward to your reaction to our recent initiatives and to our proposal for a local U.S. Department of Labor office.

Sincerely,



FROILAN C. TENORIO

cc: CNMI Resident Representative to the United States



## U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR  
WASHINGTON, D.C.

JUN 6 1994

The Honorable Froilan C. Tenorio  
Governor  
Commonwealth of the  
Northern Mariana Islands  
Capitol Hill  
Saipan, MP 96950

Dear Governor Tenorio:

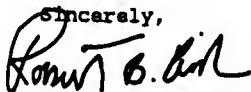
3/1/94  
 Thank you for your letter seeking the U.S. Department of Labor's cooperation and assistance in addressing some of the longstanding labor problems in the Commonwealth of the Northern Mariana Islands (CNMI), especially regarding nonresident workers in the garment industry. I applaud the actions taken by your administration to improve working conditions, and I note with interest your legislative proposal to raise the CNMI minimum wage to the level of the U.S. minimum by January 1, 1996 (January 1, 1995, for garment manufacturers).

We want to establish an ongoing working relationship with your government in your efforts to enhance the standard of living of workers in the CNMI. In this regard I understand that William Buhl, Regional Administrator of the Wage and Hour Division in San Francisco, met with Peter De La Cruz, Acting Director of the CNMI Department of Labor and Industry, on February 18th. They discussed a number of areas in which the two agencies might join forces to combat the serious labor problems that exist, especially those that pervade the garment industry on the island of Rota. Mr. Buhl has suggested that the Department of Labor (DOL) and the CNMI enter into an agreement that would provide the framework for DOL to provide training for CNMI employees engaged in enforcement; to join with your enforcement staff in conducting investigations of large businesses; and to participate in joint seminars for employers, particularly those in the garment industry, to provide technical assistance and education. To the extent necessary DOL would provide personnel from the mainland for training and outreach activities.

Rec 6/14/94  
 copy of letter EAC  
 Comments to DOL  
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I was pleased to hear that the meeting was very positive and I look forward to DOL's continued working relationship with the CNMI. If we can be of any assistance in these efforts, please do not hesitate to contact Maria Echaveste, Administrator of the Wage and Hour Division, on (202) 219-8305.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert B. Reich". The signature is stylized and cursive, with the first name "Robert" being the most prominent part.

Robert B. Reich



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**FROILAN C. TENORIO**  
Governor

**JESUS C. BORJA**  
Lt. Governor

Capitol Hill  
Saipan, MP 96950  
Telephone: (670) 322-5091-3  
Fax: (670) 322-5096

09 AUG 1994

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We hope this letter finds you and yours in the very best of health and spirits. This letter comes to you from the newest member of the American political family, the Commonwealth of the Northern Mariana Islands, which lies 10,000 miles to the west of Washington, D.C.

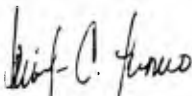
In 1976 Congress approved the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States." P. L. 94-241, 90 Stat. 263 (Mar. 26, 1976). Among other things, the Covenant created a new Federal Judicial District and a District Court. We have had a District Court and a District Judge since the Covenant took effect; however, we have had to share the services of both the United States Attorney for the District of Guam and the United States Marshal for that district. This has proved unwieldy.

The Commonwealth of the Northern Mariana Islands is entirely separate and distinct, both politically and geographically, from the Territory of Guam, and yet, we are the only judicial district in the entire United States required to share the services of these two important federal officers. The Commonwealth has a population of approximately 50,000 people scattered over more than 260,000 square miles of ocean, including more than 14 islands (second only to the Judicial District of Alaska in size). Saipan is the destination of several hundred thousand visitors from Japan, Korea, Taiwan and other points in Asia. Our ports are the entry point for cargo from around the world. Special Agents of the FBI have expressed grave concern that organized crime from points in Asia have infiltrated the islands and are actively involved in illegal enterprise within our borders including transporting narcotics from Asia to the Continental United States. Our concern is for the many cases that have not been brought to the federal court, owing to the current arrangement. In addition during the past three years more than 6,000 Commonwealth residents have sought the protection of the Federal District Court in civil cases, mostly for alleged violations of civil rights or labor abuses.


In short, having but one Assistant United States Attorney posted to us from the District of Guam to serve the entire Commonwealth is simply inadequate. We feel that the citizens of this new Commonwealth need the full protection of our Government and, therefore, request that you appoint both a United States Attorney and a United States Marshal to serve solely the District of the Northern Mariana Islands, pursuant to your authority in 48 U.S.C. Section 1694 (b) (3).

Thank you for your consideration of our request. We have the honor to remain,

Most respectfully yours,



FROILAN C. TENORIO  
Governor  
Commonwealth of the Northern  
Northern Mariana Islands



ALEX R. MUNSON  
Chief Judge  
United States District Court for the  
Northern Mariana Islands

cc: The Honorable Janet Reno, Attorney General of the United States  
The Honorable Eduardo Gonzales, Director, United States Marshals Service  
The Honorable Bruce Babbitt, Secretary of the Interior



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

AUG 12 1994

The Honorable Jo Ann Harris  
Assistant Attorney General  
Criminal Division  
U.S. Department of Justice  
Tenth Street and Constitution Avenue, N.W.  
Washington, D.C. 20530

Dear Assistant Attorney General Harris: *J*

I am writing to urge the Department of Justice (DOJ) to increase its permanent presence in the Commonwealth of the Northern Mariana Islands (CNMI). The population of the CNMI has increased dramatically from approximately 17,000 to nearly 60,000 in the past 15 years. With this increase, there has been a substantial increase in white collar crime, narcotics trafficking, presence of foreign criminal elements, and labor and immigration violations. These problems are of such magnitude and diversity that they have overwhelmed local law enforcement capabilities and threaten to overwhelm the limited Federal law enforcement presence in the CNMI.

To date, DOJ presence in the CNMI has been maintained through DOJ operations in Guam. While this arrangement may have been adequate in the past, it is no longer adequate given the substantial change in the crime situation in the CNMI. Moreover, the legal relationship between the U.S. and the CNMI is fundamentally different than the relationship between the U.S. and Guam. Accordingly, I believe that Federal law enforcement efforts in the CNMI should be more independent of Guam.

I would like to meet with Justice Department officials to discuss the need for a permanent U.S. Attorney in the CNMI as well as Federal Bureau of Investigations and Drug Enforcement Administration personnel.

Would you ask appropriate members of your staff to contact my office on 208-4822 to schedule such a meeting?

Thank you in advance for your consideration in this matter.

Sincerely,

Leslie M. Turner  
Assistant Secretary  
Territorial and International Affairs

*Rec 8/17/94  
copy AG, EAG,  
DPS*



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**FROILAN C. TENORIO**  
Governor

**JESUS C. BORJA**  
Lt. Governor

Capitol - 1  
Saipan, MP 96950  
Telephone: (670) 322-5097 - 3  
Fax: (670) 322-5096

15 SEP 1994

The Editor  
The Washington Post  
1150 15th St. NW  
Washington, D.C. 20071

Dear Editor:

Violations of human rights such as beatings, rapes and illegal lockups of alien workers anywhere in the Commonwealth of the Northern Mariana Islands, as reported in your recent front page story, are intolerable and unacceptable to the present government and most of the citizens of this United States Commonwealth.

While your story and others in a similar vein printed elsewhere have prompted protests and disclaimers by some of our citizens, this Administration will not join this chorus of denial. During our nine months in office, many of these long standing allegations have been confirmed by investigation, prosecutions of individuals engaged in corrupt practices involving alien workers have begun, and a number of other measures intended to correct past institutional failures of the system are being put in place.

Your "Foreign Service" correspondent, Mr. William Branigin, correctly describes my intent to be a "reformist" Governor. Had Mr. Branigin asked me forthrightly about these matters during the social occasion on which we met, I would have been pleased to describe actions already taken and others being contemplated to resolve these problems. As best we can determine, Mr. Branigin appears to have focused his interviewing and research on the church and other social activists who performed an invaluable service in recent years by exposing a festering pattern of corruption and abuse of individuals to the light of day. While I commend these persons and their supporters for stepping in when our system failed, I must note that bringing about institutional reform is a somewhat more tedious process that is less likely to gain the attention guaranteed by front page placement in the *Washington Post*.

I believe some of these reform efforts deserve further elaboration for your readers: What is described as a "commonwealth panel" is what we call the Rota Labor Task Force. I created this body in June 1994 to determine whether our labor laws were being properly enforced on Rota. Even before the Task Force arrived on Rota, the Rota Director of Commerce and Labor had been suspended from his duties in light of reports that he had failed to execute provisions of CNMI labor law, a decision later supported by Task Force findings. Many of the wrongs resulting from this system failure are being righted through further hearings and administrative action.

I think it is worthy of note by the *Post* that in August I issued an order removing enforcement of CNMI labor laws from the island mayors, reserving it to the central government, "to ensure that the constitutional due process rights of nonresident workers

in the Commonwealth are protected and to allow for the uniform application of the labor laws in the Commonwealth."

On another front, two former Commonwealth labor officials now face criminal charges for taking payoffs in cases from employers and the former resident chief of immigration on Rota was recently convicted of theft and misconduct in public office in a case involving alien workers. This is an Administration which will follow and enforce our laws, particularly those relating to alien workers.

We are just completing the drafting of comprehensive CNMI labor laws to replace the patchwork of laws that appear to have provided opportunities for abuse over the years. We have acknowledged past problems with labor law enforcement by requesting that the federal Department of Labor send staff to the CNMI, "to enforce U.S. labor laws and to provide technical assistance and education, aimed at improving the standard of living for nonresident workers in the Commonwealth." I made this request immediately upon taking office and long before the Rota problem was exposed. The reorganization of our government now being completed has combined the labor and immigration functions, separating labor from commerce.

We have also asked President Clinton for further assistance from the Federal Government, through the creation of a CNMI office of the Department of Justice. This institutional presence will underline the seriousness of our desire that mistreatment and crimes against our working population cease.

A major problem that has led to past abuse has been the illegal entry of many workers from the Philippines. Corruption in both the CNMI and the Philippines has allowed this to occur, and undocumented workers who have been allowed to enter are thus subject to victimization. We have learned that, particularly on Rota, this practice over the years became the rule rather than the exception.

Both the CNMI and the Philippines have tightened monitoring requirements of employees bound for the CNMI and recruiting agencies, which have been a frequent source of problems, will now be certified by both governments. A CNMI-Philippine liaison office, just opened in Manila, will screen employment contracts and documentation. A recently enacted CNMI immigration act imposes tougher penalties on violators.

In the past, the immigration office in the CNMI has been abused, for example, by its use as a means to obtain personal employees at a bargain price. My order that persons receiving food stamps, low cost housing and other government assistance not be allowed to hire such workers has ironically generated criticism of the present government from some who were unaware of such past abuses.

The original intent of local control of immigration was to check the growth of our population and to provide an otherwise unavailable labor force to allow economic development. Clearly, past administrations lost track of this. However, this Administration recognizes that the presence of vast numbers of maids and other such workers does little to help economic growth; in fact, as has been pointed out frequently, our government has subsidized the importation of these workers for years. Our overall policy is to make sure that those who import such workers pay the full cost and bear the

responsibility for their presence. Our first legislative proposal in January was to apply the U.S. \$4.25 an hour minimum wage within two years, to insure that employers become much more selective in their hiring of foreign labor.

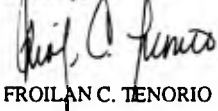
I will shortly be in Washington for testimony before the Senate Subcommittee on Mineral Resources Development and Production. The serious and undisputed history of human rights abuses in the Commonwealth is rightly on the minds of many. I will candidly and honestly address these matters. However, I believe that the accumulating record of change in our system since January will allow me to make a very strong case for our Commonwealth of the Northern Mariana Islands.

Many persons in and around the Congress know me from my time in Washington as the Resident Representative to the United States from the Northern Mariana Islands and I believe that is of some benefit to the case that I will be presenting while there. I am a man who respects the laws; the Commonwealth Covenant, our CNMI Constitution and the U.S. Constitution are documents I refer to every day and do not take lightly. I am angry to see the promise of these noble documents frustrated by individual viciousness, greed and corruption.

I am also bitterly disappointed by the shame and embarrassment we have brought to our loyal supporters in the Congress and in Washington generally through these practices and incidents. They cannot and should not overlook the ugly picture of our Commonwealth that has been spread before them. I assure them that we will make amends and further, that this is not an empty promise. There has already been change for the better and its pace will accelerate.

I cannot and will not defend those who would abuse any person residing on our islands. I beg you to understand that the majority of our citizens are persons of good will and kindness and proud of their long sought though very short status as U.S. citizens. It is my sincere opinion that, with some further expenditure of patience and time, our society will measure up to the highest standards in any community that flies the American flag. There are those who would severely punish everyone in the CNMI for the actions of a few. I hope that my testimony will encourage those in Washington with such a view that a much better way to end these abuses would be to punish the guilty and work with my Administration to restore the integrity and credibility of our Commonwealth to our fellow Americans.

Sincerely,



FROILAN C. TENORIO

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