

GAO

Report to the Ranking Minority
Member, Subcommittee on
International Security, Proliferation and
Federal Services, Committee on
Governmental Affairs, U.S. Senate

May 2000

NORTHERN MARIANA ISLANDS

Procedures for Processing Aliens and Merchandise





G A O

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United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-283950

May 26, 2000

Honorable Daniel K. Akaka
Ranking Minority Member
Subcommittee on International Security,
Proliferation and Federal Services
Committee on Governmental Affairs
United States Senate

Dear Senator Akaka:

The Commonwealth of the Northern Mariana Islands (CNMI) is a U.S. territory with commonwealth status in the western Pacific. In March 1976, President Ford signed Public Law 94-241, which formed the Covenant to Establish a Commonwealth in Political Union with the United States.¹ The Covenant establishing the CNMI placed it under U.S. sovereignty and provided for U.S. citizenship for people born there, yet it pledged self-government for local affairs. Among other things, the Covenant allows the CNMI to implement and enforce its own immigration and customs policies and procedures. Since 1984, concerns have been raised by Members of Congress and successive administrations about the CNMI's ability to effectively implement its immigration laws and control the export and import of goods. Accordingly, you asked us to provide data on the CNMI's procedures for controlling the flow of aliens and goods into and out of the CNMI. In addition, we agreed to obtain data on aliens' use of public health care and education and their involvement in criminal activities in the CNMI. We did not, however, evaluate the effectiveness of the CNMI's customs or immigration policies or procedures or the political ramifications of the presence of a large alien worker population in the CNMI.

Results in Brief

The CNMI does not have consulates or embassies in foreign countries. It does not require visas for people entering the CNMI, nor does it have the capability to prescreen all aliens who enter the CNMI. However, the CNMI has implemented procedures for prescreening prospective alien workers and all aliens who wish to enter the CNMI from those countries that it considers "high risk."² These countries are considered high risk because

¹ Hereafter referred to as the Covenant.

² The high-risk countries include Afghanistan, Albania, Armenia, Bangladesh, Bosnia, Bulgaria, Croatia, Cuba, Czechoslovakia, Estonia, Hungary, India, Iran, Iraq, Latvia, Libya, Lithuania, Macedonia,

they have not always been willing to repatriate their nationals. In addition, some countries are also included because they have a history of fraudulent alien worker recruitment schemes that originate in the home countries in which prospective alien workers paid fees for jobs in the CNMI that did not exist. The CNMI has included them on the list as a means of preventing this practice.

Alien workers are required to provide the results of criminal background checks from their home countries to CNMI immigration officials when they enter the CNMI or to have the results provided directly to the CNMI Department of Labor and Immigration (DOLI).³ According to the Acting Director of the CNMI Immigration Division, law enforcement agencies in Hong Kong and South Korea provide the results of criminal background checks for prospective workers directly to DOLI. In contrast, alien workers from the Philippines and China bring the results of their criminal background checks with them to the CNMI. The Acting Director of the CNMI Immigration Division would prefer to have the law enforcement agencies send the results of all prospective alien workers' criminal background checks directly to DOLI. Under this approach, the CNMI would require that the law enforcement agencies in the aliens' home countries supply the results of the background checks directly to DOLI. This requirement could reduce the ability of prospective alien workers with disqualifying criminal backgrounds to alter the results of the criminal background checks, thereby reducing the possibility of fraud. According to CNMI government officials, the CNMI is exploring the possibility of making arrangements for the Philippines and China to send these reports directly to DOLI.

Alien workers are also required to bring health certificates with them to the CNMI. In addition, alien workers are required to undergo screenings at a CNMI-certified health clinic within 10 days of entering the CNMI and every year thereafter.

Employers are financially responsible for their alien workers' health care and return airfare while the workers remain in the CNMI. In some cases the law also requires employers to provide free food and housing. In addition, employers generally cannot hire a new alien worker to replace a departing one unless they can show that the original worker departed the

Mongolian People's Republic, Montenegro, Nepal, Nigeria, North Korea, Peoples Republic of China (except for garment factory workers), Poland, Romania, Russia, Serbia, Sri Lanka, and Vietnam.

³DOLI encompasses separate divisions of Immigration and Labor. A Director who reports to the Secretary of Labor and Immigration heads each division.

CNMI, transferred to another employer, or died.⁴ The CNMI Immigration Division relies on employers to report aliens who remain in the CNMI beyond the end of their employment periods. In addition, according to CNMI officials, CNMI governmental agencies are also used as a means to monitor the status of illegal aliens. The Department of Public Health, the Public School System, the Mayor's Office, the Marriage License Section, the Department of Public Safety, and other CNMI governmental agencies will report to the Division of Immigration if they identify an alien who has stayed beyond the approved period.

The CNMI manually records the date of entry and the date of departure of visitors. By manually tracking the departure dates, CNMI Immigration officials can identify those visitors who have not left the CNMI. The CNMI has identified a computer system to perform this function and is in the process of attempting to procure it. The CNMI hopes to have this system operational in July 2000.

According to CNMI government officials, the current CNMI administration has given priority to enforcement of labor and immigration laws. This has led to increased enforcement activities and legislation to provide greater control over labor and immigration and to improve the conditions for aliens who work in the CNMI.

According to the CNMI Customs Director, the Customs Division is to inspect all cargo containers coming from Asian countries and randomly inspect containers arriving from non-Asian countries, including the United States. Garments manufactured in the CNMI account for an estimated 99 percent of the CNMI's exports, and containers of garments ready for export are inspected on a periodic basis. The U.S. Customs Service has conducted a number of joint investigations with the CNMI Customs Division over the past few years. Although these investigations have uncovered some drug-smuggling activities, the investigations have found no evidence of diversions or transshipments.⁵

⁴ The CNMI allows employers whose employees have left the CNMI to replace them (within 90 days) with someone from outside the CNMI. The employer is also entitled to replace the employee who left with a locally hired alien worker. If the employee has left the position but remains in the CNMI, then the employer must find a replacement from the workforce within the CNMI, either citizen or alien.

⁵ In this report, (1) diversion is the movement of cargo or a vessel from the United States to a port other than that originally designated and thereby shipping merchandise to countries that are not permitted to obtain such merchandise (e.g., computer or other technology goods); and (2) transshipment is the importation of goods to the United States declaring a false country of origin to circumvent quota and/or other restrictions applicable to the shipment, such as manufactured garments that were not manufactured in the CNMI and as result should be subject to U.S. import quotas and restrictions.

Aliens accounted for 58 percent of the population of Saipan⁶ in 1999, 26 percent of the fiscal year 1999 public health care expenditures, and about 11 percent of the public school system's operating costs for the 1999-2000 school year.⁷

Aliens accounted for between 44 percent and 69 percent of the arrests for the five most frequent crimes in the CNMI in those years for which data were available, and these percentages roughly align with the aliens' proportion of the CNMI population.⁸

In commenting on a draft of this report, CNMI provided technical comments that have been incorporated, where appropriate. The Department of the Interior felt that the report lacked the critical evaluation and analysis to determine whether the CNMI's procedures for processing aliens and merchandise met required standards. The Immigration and Naturalization Service (INS) said our report should clearly state that our objectives were not to address immigration policy issues and thereby avoid creating the impression that we reviewed the procedures. We have modified the report to more explicitly state that our objectives were not to evaluate the effectiveness of the CNMI's procedures and policies.

Background

The Northern Mariana Islands are located just north of Guam in the Pacific Ocean. Of the 14 islands that make up the CNMI, only 3 (Saipan, Rota, and Tinian) are inhabited with significant populations.⁹ The United States took control of the Islands during the latter part of World War II. In 1947, the U.S. Congress approved the Trusteeship Agreement that made the United States responsible to the United Nations for the administration of the Islands. Under the Covenant established in 1976, the first elected government of the Northern Mariana Islands took office in January 1978, although the Islands remained a part of the Trust Territory of the Pacific Islands under the jurisdiction of the Secretary of the Interior. In 1986, upon termination of the United Nations Trusteeship, the Northern Mariana Islands became a full commonwealth in political union with and under the

⁶ Saipan is the most populous island and accounts for about 90 percent of the CNMI's population.

⁷ Included in the alien population are citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, which are generally called the Freely Associated States (FAS). The FAS are sovereign nations that have compacts of association with the United States. FAS citizens are not U.S. citizens, but they have the right to live and work in the CNMI.

⁸ For the periods extending from July to December in 1996 and in 1997, the five most frequent crimes were assault, burglary, criminal mischief, disturbing the peace, and theft.

⁹ The islands of Anatahan and Agrihan, which are located at the north end of the island chain, are inhabited by a handful of individuals.

sovereignty of the United States. Within the U.S. Government, the Department of the Interior's Office of Insular Affairs (OIA) is responsible for assisting the CNMI with achieving its political, economic, and social goals.

The Covenant

Under the Covenant between the CNMI and the United States, the CNMI is under U.S. sovereignty but has self-government for local affairs. The Covenant also provides U.S. citizenship for people born in the CNMI. In general, federal law applies to the CNMI; however, a basic objective of the Covenant was to encourage economic growth and a standard of living comparable to that in the United States. To that end, the Covenant provided several economic incentives in the form of exemptions from federal law. For example, clothing made in the CNMI that does not contain foreign substances valued at more than 70 percent of the garments' worth is exempt from U.S. textile quotas and from U.S. Customs' duties if exported to the United States. In addition, garments made in the CNMI are entitled to bear labels identifying them as having been made in the United States. Current exceptions from federal law provided by the Covenant are that:¹⁰

- The CNMI is not within the customs territory of the United States.
- Federal minimum wage provisions do not apply.
- Federal immigration laws do not apply.
- The CNMI can establish its own tax and fee structure.
- The Jones Act, which requires goods shipped between U.S. ports to be carried on U.S.-registered ships, does not apply to the CNMI.

CNMI Immigration Policies

CNMI immigration policies allow the use of alien workers. The workers are employed mostly in the garment and tourist industries. In 1995, these two industries were responsible for about 85 percent of the CNMI's total economic activity.¹¹ The CNMI issues permits that do not lead to U.S. citizenship for these alien workers. The CNMI also issues permits to alien business owners and their families. Due in large part to the influx of these aliens, the population of Saipan increased from 14,549 in 1980 to an estimated 71,790 in 1999, as shown in table 1.¹² The percentage of aliens in

¹⁰ Section 502 of the Covenant provides a formula to determine which other laws apply or do not apply.

¹¹ *An Economic Study of the Commonwealth of the Northern Mariana Islands*, Business Development Center, Northern Mariana College, with funding provided by OIA, Oct. 1999.

¹² Population data more current than 1995 were available for Saipan only. To be consistent across all years, we show population changes for Saipan only, rather than all of the CNMI. The 71,790 figure was published by the CNMI Department of Commerce and is based on census figures in 1995 and the growth rate of the population between 1990 and 1995. However, according to the CNMI Governor's

the population increased from 23 percent in 1980 to 56 percent in 1990 but increased only slightly between 1990 and 1999.

Table 1: Population of Saipan, by Citizenship Category, for Selected Years During 1980-1999

Citizenship category	1980		1990		1999	
	Number	Percent	Number	Percent	Estimated number	Percent
All persons	14,459	100.0	38,896	100.0	71,790	100.0
U.S. citizens	11,195	76.9	17,171	44.1	30,154	42.0
Born in the CNMI	10,239	70.4	14,378	37.0	24,710	34.4
Born in U.S. or territory	956	6.6	1,968	5.1	3,543	4.9
Born abroad of U.S. parents	N/A	N/A	212	0.5	199	0.3
Naturalized citizen	N/A	N/A	613	1.6	1,702	2.4
Aliens	3,354	23.1	21,725	55.9	41,636	58.0
Permanent resident	N/A	N/A	2,056	5.3	5,477	7.6
Temporary resident	N/A	N/A	19,669	50.6	36,158	50.4

N/A: Not available

Source: 1980 Census Report, 1990 Census Report, and 1999 Labor Force Quarterly Survey.

Included in the alien category are immediate relatives of U.S. citizens. Some of these individuals are nonresident spouses of U.S. citizens who are not legal permanent resident aliens but are residing in the CNMI under the CNMI Immigration category of "immediate relative." Included in the category of permanent resident are FAS citizens.

Data on Illegal Aliens

No firm data are available on the number of illegal aliens present in the CNMI. The CNMI Government estimated that there were between 2,000 and 5,000 illegal aliens in the CNMI prior to September 1998; however, INS estimated that there were between 2,000 and 4,000 illegal aliens. To address the issue of illegal aliens in the CNMI, Public Law 11-33, which was enacted on September 2, 1998, provided illegal aliens with the opportunity to register to enable them to become lawfully employed in the CNMI. The registration period ended on June 2, 1999, with 3,111 aliens having registered. CNMI government officials believe that the registration figure is fairly representative of the true number of illegal aliens in the CNMI because every effort was made to build trust to encourage illegal aliens to register and to show them the validity of the grant of amnesty. In addition, the CNMI officials believe that the profiles and numbers of people who eventually came in to register indicated that trust was established, and officials believe that most illegal aliens present in the CNMI availed themselves of this opportunity.

Office, immigration data, school enrollment, hospital records, nonrenewal of business licenses, and other sources all indicate that there are fewer people in Saipan than 71,790.

Role of INS and Customs in the CNMI

Because the CNMI operates its own immigration system, the role of INS in the CNMI is limited. INS has provided (1) input to CNMI Immigration officials to help prevent unauthorized aliens from entering the CNMI and (2) training to CNMI immigration officers.

The CNMI is outside U.S. Customs' territory; thus, U.S. Customs does not have the authority to conduct inspections or examinations of cargo, baggage, or people entering the CNMI. The CNMI has its own Customs Division that is responsible for collecting duties and taxes and inspecting passengers, baggage, and imported and exported cargo. The U.S. Customs Service can, however, investigate certain violations of federal law, including money laundering, counterfeiting, and drug smuggling activities in the CNMI.

Scope and Methodology

To provide data on the CNMI's procedures to control the flow of aliens into and out of the CNMI, we met with INS officials in Washington, D.C., as well as with immigration officials in the CNMI. We also collected documentation on the CNMI's immigration policies, procedures, and practices, as well as available data on alien exclusions and deportations. Further, we observed the procedures used by CNMI immigration inspectors for screening aliens upon arrival into and departure from the CNMI.

We met with officials at INS and with immigration officials in the CNMI regarding the status, capabilities, and evaluations performed of the current automated immigration system—the Labor and Immigration Identification and Documentation System (LIIDS). Specifically, we met with its Secretary of Labor and Immigration, its Acting Director of Immigration, its Director of Labor, and its LIIDS Project Manager. We also gathered relevant documentation regarding the development, capabilities, and evaluations of LIIDS. Further, we observed LIIDS in use by immigration officials. Finally, we collected information on DOLI's proposed addition of an arrival and departure component to LIIDS.

To obtain data on the procedures used by the CNMI Customs Division for controlling imports to and exports from the CNMI, we met with U.S. Customs officials in Washington, D.C., to gather documentation on investigations conducted in the CNMI, the results of those investigations, the interaction between the U.S. Customs Service and the CNMI Customs Division, and the role U.S. Customs has played in the CNMI Customs Division's efforts. In addition, we met with CNMI Customs officials and gathered documentation on the CNMI Customs Division's policies and

procedures, as well as data on the results of cargo inspections. In addition, we observed CNMI Customs agents' inspections of cargo containers.

To obtain data on aliens' use of public health care and education, as well as the involvement of aliens in criminal activities in the CNMI, we met with officials of the United States Census Bureau, the Department of Justice, and OIA in Washington, D.C.; and with officials from the Centers for Disease Control in Atlanta, GA, via videoconference. In the CNMI, we met with representatives from the Department of Public Health, the CNMI Department of Commerce's Central Statistics Division, and the CNMI Public School System to gather available data on (1) visits to public health care facilities, public health care expenditures, and disease rates in the CNMI and how these differ between the resident and alien populations; and (2) student enrollment in the CNMI Public School System, including children of aliens and CNMI citizens. Further, we met with the Commissioner and staff of the CNMI Department of Public Safety, officials from the U.S. Attorney's Office in the CNMI, and representatives from U.S. law enforcement agencies stationed in the CNMI to collect available data and discuss aliens' involvement in criminal activities in the CNMI. (App. I contains information on the federal agencies represented in the CNMI.)

In this report we did not evaluate the effectiveness of the CNMI's customs or immigration policies or procedures, or the political ramifications of the presence of a large alien worker population in the CNMI. Although we tried to use the most accurate data available, we did not independently verify the accuracy of the data provided to us.

We conducted our work in Washington, D.C., and in the CNMI between October 1999 and April 2000 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Governor of the CNMI, the Secretary of the Interior, and the Commissioner of INS. In addition, we discussed pertinent sections of the draft report with U.S. Customs officials. The CNMI provided technical comments, which have been incorporated into the report, where appropriate. The Department of the Interior and INS provided comments that are summarized at the end of the letter; incorporated into the report, where appropriate; and reproduced in appendixes II and III, respectively. U.S. Customs Service officials told us that they agreed with the facts presented in the draft pertaining to the U.S. Customs Service and had no further comments on the report.

The CNMI's Immigration System

The CNMI does not require visas for travel to the Commonwealth. Unlike sovereign countries, the CNMI has no embassies or consulates in foreign countries and, therefore, is unable to interview applicants for admission or issue them visas while they are still in their home countries. However, the CNMI has its own system for (1) preapproving CNMI employers' petitions for alien workers, (2) preapproving the entry of aliens from high-risk countries, (3) inspecting passengers upon arrival and departure, (4) investigating compliance with immigration laws, (5) excluding unauthorized aliens from entering the CNMI, and (6) deporting aliens who are in the CNMI illegally. In addition, the CNMI uses LIIDS to document alien workers in the CNMI. LIIDS is not used to track visitors or workers, so the CNMI is in the process of developing an expanded computer system to track CNMI visitors and alien workers. To address immigration-related problems, the CNMI has increased its enforcement activities and made legislative changes.

Prearrival Screening of Passengers

The CNMI requires all alien visitors from high-risk countries who are not entering for employment purposes to have an Authorization to Board (ATB) letter from the Secretary of Labor and Immigration prior to boarding a CNMI-bound carrier.¹³ In addition, aliens who enter the CNMI to work are to have an Authorization for Entry (AFE) permit granted in advance of their arrival at the port-of-entry.

Prescreening of Aliens from High-Risk Countries

In 1999, DOLI instituted procedures to control entry of individuals from certain high-risk countries into the CNMI. According to the Secretary of Labor and Immigration, experience has shown that individuals from these countries have been difficult to repatriate. These countries are considered high risk because these countries have not always been willing to repatriate their nationals. In addition, some countries are also included because they have a history of fraudulent alien worker recruitment schemes that originate in the home countries in which prospective alien workers paid fees for jobs in the CNMI that did not exist. The CNMI has included these countries on the list as a means of preventing this practice. All individuals from high-risk countries who are not entering the CNMI for employment purposes must first obtain an ATB letter from the Secretary of Labor and Immigration prior to boarding a CNMI-bound carrier.

In order to obtain an ATB letter, the applicant must, in advance of traveling to the CNMI, provide

¹³ According to CNMI officials, all alien workers and the vast majority of the visitors who entered the CNMI in 1999 entered through the Saipan International Airport.

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- a valid passport,
 - statement on the purpose of traveling to the CNMI,
 - the name of a contact or sponsor in the CNMI,
 - his/her occupation in the home country, and
 - a security bond (at the discretion of the Director of Immigration or Secretary of Labor and Immigration).

Individuals with an ATB letter must present it to a carrier representative prior to boarding a CNMI-bound carrier and, upon entry, to a CNMI immigration officer. It is also the policy of the CNMI Immigration Division to retain custody of high-risk citizens' passports until their departure from the CNMI. In those cases where an individual without an ATB letter is allowed to board a CNMI-bound carrier, the carrier is required to return the individual to his/her point of departure at its expense.

Prescreening of Alien Workers

The CNMI has a screening process for approving alien workers prior to their entry into the CNMI. Each alien seeking employment in the CNMI must submit an application to DOLI. In some cases, immediate relatives may accompany alien workers.¹⁴ As part of this screening process, each prospective alien worker is required to have a health screening¹⁵ and a criminal background check conducted in the alien's home country. In addition, employers are required to post a bond for each prospective alien worker to cover 3 months' salary, \$3,000 in medical coverage, and the cost of the alien's return carrier ticket.¹⁶

Because of the large number of alien workers who come to the CNMI from the Philippines,¹⁷ the CNMI works with the Philippines Overseas Employment Agency¹⁸ and the Philippines Consulate in the CNMI to assist prospective workers in obtaining the required health screens and to ensure that prospective workers do not have disqualifying criminal histories.

¹⁴ Only those alien workers who are employed in managerial, professional, or technical occupations in which they earn \$20,000 or more per year are allowed to bring immediate relatives to the CNMI. In 1999, 33,027 permits were issued to alien workers. An additional 891 permits were issued for immediate relatives of alien workers.

¹⁵ For more information on alien health screens, see the section entitled "Alien Health Screening Program."

¹⁶ In commenting on this report, the Department of the Interior noted that although small firms are required to post cash to guarantee 3 months salary, airfare to the worker's country of origin, and a bond for medical coverage, large companies are not required to make such cash commitments.

¹⁷ Approximately 40 percent of the work permits issued in 1999 were issued to Filipinos.

¹⁸ This is the government agency in the Philippines responsible for all aspects of overseas employment of its citizens.

According to the Acting Director of Immigration, Hong Kong and South Korea are the only countries whose law enforcement agencies provide the results of criminal background checks for prospective workers directly to DOLI. In contrast, alien workers from the Philippines and China¹⁹ bring the results of their criminal background checks with them to the CNMI. The CNMI is exploring the possibility of making arrangements for the Philippines and China to send these reports directly to DOLI. The Acting Director of Immigration would prefer to have the law enforcement agencies send the results of all prospective alien workers' criminal background checks directly to DOLI. Under this approach, the CNMI would instead rely on the law enforcement agencies in the aliens' home countries to directly supply the results of the background checks. This approach could reduce the ability of alien workers with disqualifying criminal backgrounds from altering the results of the criminal background checks, thereby reducing the possibility of fraud. DOLI does not have the means to verify the criminal histories of arriving alien workers. For example, if it had staff in foreign countries with access to criminal history databases, its staff could independently determine the criminal histories, if any, of prospective workers.

When an application for an alien worker is approved, DOLI completes an AFE and sends a copy to the alien worker. The AFE contains basic biographical and employment information, a photograph of the alien worker, and a permit number. Each alien worker is assigned a unique permit number by LIIDS. The AFE is the document that the alien worker will use to enter the CNMI. In addition to providing a copy of the AFE to the alien worker, DOLI also provides a copy to CNMI immigration inspectors at the Saipan International Airport.

Screening of Aliens Upon Entry

All visitors to the CNMI who are not U.S. citizens must complete an Arrival and Departure Record, which includes name; citizenship; date of birth; passport number; carrier flight number; address while staying in the CNMI; the purpose of their visit; and, in the case of alien workers, the entry permit number.

Upon presentation of the Arrival and Departure Record, immigration inspectors stamp the Record with the date of arrival and retain one copy (the arrival portion) for their files. The departure portion is attached to the alien's passport and is collected by an immigration inspector when the alien departs the CNMI. The departure portion also has the date the alien

¹⁹ According to the Secretary of Labor and Immigration, Chinese workers are hired only for work in garment factories.

entered the CNMI stamped on it so that immigration inspectors can manually match the arrival and departure portions of the record for each alien and thereby know the length of their stay in the CNMI.

When an alien worker arrives, he or she is to present the copy of the AFE to the immigration inspector for entry into the CNMI. The inspector is to compare the Immigration Division's copy of the AFE to the alien worker's copy to confirm (1) the consistency of the information, including the photographs on both documents; and (2) the identity of the worker. After reviewing the AFEs, the immigration inspector stamps the AFE copies to certify that the alien worker has entered the CNMI. The alien worker is then to take the AFE to DOLI to exchange it for a plastic permit card.²⁰

The permit cards are produced by LIIDS.²¹ Since 1995, the CNMI has been using LIIDS to account for and document alien workers in the CNMI. The LIIDS database collects information on each alien's (1) full name; (2) address in the CNMI; (3) citizenship; (4) gender; (5) employment status; (6) immigration classification (e.g., missionary, alien worker); and (7) where appropriate, the employment contract period. The LIIDS database also contains a photograph of each alien worker, along with the alien's permit number.

According to DOLI, in 1999, about 88 percent (33,027 out of 37,557) of the total number of permit cards issued were to alien workers.²² As can be seen in table 2, the garment industry is the single largest employer of alien workers in the CNMI. The number of permit cards issued to alien workers fluctuated between 1997 and 1999.²³

²⁰In some cases, permit cards for alien workers are made in advance and available to the alien workers at the airport.

²¹See the section entitled "Overview of LIIDS" for more information on LIIDS.

²²The 33,027 figure does not reflect an actual head count of alien workers because some workers are issued new permits within the same year for such things as having a consensual transfer from one employer to another, replacing a lost permit card, etc.

²³In 1999, the CNMI Government signed into law Public Law 11-76, which placed a cap on the number of alien workers in the garment industry. The CNMI House of Representative recently passed a bill (H.B. 12-39) that seeks to, among other things, remove the cap, but the Governor's Office has stated that the Governor is committed to the cap and will veto any legislation that seeks to repeal the cap.

Table 2: Permit Cards Issued to Alien Workers, by Employment Sector, for 1997, 1998, and 1999

Employment sector	1997	1998	1999
Banking	36	31	13
Construction	4,289	2,794	2,888
Garment	12,593	11,152	16,533 ^a
Hotels	2,063	2,328	2,106
Government	22	25	73
Private household	2,276	1,690	2,163
Restaurant/night club	2,436	1,586	1,736
Services ^b	10,369	6,702	7,366
Other ^c	27	71	149
Total	34,111	26,379	33,027^d

^aThis number includes new permits issued within the same year to an alien worker for such things as having a consensual transfer from one employer to another, replacing a lost card, etc. According to CNMI officials, the actual number of workers who were issued permits in 1999 for the garment industry (excluding re-issues discussed above) was 15,641. We did not have a breakout of this figure for 1997 and 1998.

^bThe Service sector includes duty-free shops, retail stores, auto repair shops, and other businesses that provide services to the general public.

^c“Other” includes all other business sectors that were not entered into LIIDs.

^dIn commenting on this report, the Department of the Interior stated that this number (33,027) excludes workers employed under temporary work authorizations while their labor complaints are being investigated by various local and federal agencies.

Source: CNMI Department of Labor and Immigration.

Aliens Excluded From Entering the CNMI

The CNMI can exclude aliens from entry into the CNMI for a number of reasons. Excludable aliens include those who (1) have been convicted of certain crimes, (2) have no means of support, (3) have been deported from the CNMI within the past 5 years, (4) attempted to enter the CNMI with invalid or fraudulent travel documents, or (5) pose a threat to the public health of the CNMI. Table 3 summarizes the total number of exclusions during years 1996 to 1999.²⁴ Data were not available on the reasons for the exclusions; however, according to the Acting Director of Immigration, the aliens were likely excluded from entry because they did not have the proper documents to enter the CNMI.

²⁴ Data were not available on the reasons why the number of excludable aliens significantly decreased between 1998 and 1999.

Table 3: Total Number of Exclusions, 1996-1999

Year	Number of exclusions
1996	144
1997	423
1998	279
1999	83 ^a

^aThis number does not include 541 Chinese boat people who were intercepted by the U.S. Coast Guard and detained temporarily on the island of Tinian while being processed by U.S. immigration staff.

Source: CNMI Division of Immigration.

Deportation of Aliens from the CNMI

To determine if a tourist has remained in the CNMI beyond his/her authorized period, immigration staff have to manually compare the Arrival and Departure Records each month. If there is no Departure Record, the tourist is presumed to still be in the CNMI. If the 30-day period authorized for visitors has passed, an immigration inspector is to provide this information to the Immigration Division's Enforcement Unit, which is responsible for locating the visitor and beginning deportation proceedings.

Although LIIDS can document how long an alien worker has been in the CNMI, it is not being used to generate reports on alien workers who have overstayed their authorized employment periods. The Immigration Division has relied on employers to report alien workers who remain in the CNMI beyond the end of their employment period. According to the Nonresident Workers Act,²⁵ employers are responsible for their alien employees' health care costs and return airfare until they depart the CNMI. In some cases, the law also requires employers to provide free food and housing. In addition, according to the CNMI's Moratorium Law,²⁶ employers generally cannot legally hire a new alien worker to replace a departing alien worker until the original worker has departed the CNMI, has been transferred to another employer, or has died. As a result, employers have both financial and business incentives to report alien workers who have remained in the CNMI beyond the end of their employment periods to DOLI for deportation.²⁷

According to CNMI officials, CNMI governmental agencies are also used as a means to monitor the status of illegal aliens. The Department of Public Health, the Public School System, the Mayor's Office, the Marriage License

²⁵ P.L. 3-66, August 18, 1983.

²⁶ P.L. 11-6, March 27, 1998.

²⁷ In commenting on this report, the Department of the Interior noted that there may also be incentives for employers not to report alien workers who overstay their authorized time. For instance, the employer could pay the alien worker off the books, avoiding paying a legal wage.

Section, the Department of Public Safety, and other CNMI governmental agencies will report to the Division of Immigration if they identify an alien who has stayed beyond the approved period.

The CNMI can deport an alien for a number of reasons, such as if the alien (1) was excludable at the time of entry, (2) entered without inspection or in violation of law, (3) has become a public charge, (4) violated the terms of entry, (5) stayed beyond his/her approved period, or (6) has been convicted in the CNMI of a felony or two or more misdemeanors. Table 4 provides information on the number of aliens who have been deported from the CNMI each year from 1995 through 1999.

Table 4: Total Number of Aliens Deported, 1995 Through 1999

Year	Number of deportations
1995	42
1996	192
1997	247
1998	417
1999	66 ^a

^aAccording to the Division of Immigration, the low number of aliens deported in 1999 was due to the implementation of the "Amnesty Law" (P.L. 11-33), which affected the active enforcement and deportation of aliens in that year.

Source: CNMI Division of Immigration.

Data on the reasons for the deportations were available only for 1998 and 1999. Of the 417 aliens deported in 1998, 413 were deported for overstaying the authorized period of stay, 2 were deported for felony convictions, and 2 were deported for failure to follow the prescribed treatment for tuberculosis. Of the 66 aliens deported in 1999, 61 were deported for overstaying the authorized period of stay, and 5 were deported for felony convictions.

The CNMI's Immigration Control System

The CNMI has been seeking to develop a complete immigration tracking system that would include an automated system to track alien workers while in the CNMI, as well as their arrival and departure. Since July 1995, the CNMI has been using LIIDS, a computer tracking system that contains biographical, employment, and arrival and scheduled departure data on all alien workers in the CNMI. As of April 2000, the CNMI was in the final stages of implementing an automated arrival and departure component that will allow the CNMI Division of Immigration to track not only alien workers, but also visitors and others who enter the CNMI.

Overview of LIIDS

In 1994, OIA provided a \$1.5 million grant to the CNMI for development of an immigration identification and tracking system. At that time, the CNMI

Division of Labor was using a separate system to document, track, and issue permit cards for aliens entering the CNMI to work. However, the Labor Division's system failed. As a result, the prototype of LIIDS was engineered to perform those functions, and this has delayed the development of an arrival and departure component.

Since July 1995, the CNMI has been using LIIDS to account for alien workers in the CNMI. Initially, LIIDS was used only for collecting data on alien workers because it was a substitute for the prior system used by the Division of Labor. Then, in May 1996, DOLI began to use LIIDS to generate plastic permit cards for all aliens who immigrate to the CNMI, regardless of immigration classification. Near the end of the first year of the LIIDS prototype, a separate Division of Labor database had not been developed. Thus, with the assistance of vendors, several different fixes and supplements were created to support LIIDS for continued use. According to the LIIDS Project Manager, this method of extending the LIIDS prototype's life ultimately resulted in an immense and extremely complex database that was difficult to use for generating the required reports.

The LIIDS Project Manager told us that the most serious problems with the LIIDS prototype were related to system security and integrity, the processing times, and accuracy of the data. Although the LIIDS prototype was secured from people not authorized access into the system, data entry personnel could delete and/or change data in the system, and there was no way to track which files were deleted and by whom. Anyone with access to the LIIDS prototype could issue an illegal permit and either delete the entry or make it appear valid in the system. The LIIDS Project Manager added that (1) the size of the photograph files slowed the system's access and processing times considerably, (2) extracting data for required reports was time consuming, and (3) data extracted for reports were often inaccurate.

According to the LIIDS Project Manager, the revisions made to LIIDS have addressed the problems found in the prototype version. In addition to being year-2000 compliant, the revised version of LIIDS corrected security problems found with the prototype version. For example, the input operator's name is now automatically entered on the appropriate fields, and changes or corrections to a permit card or application can now be made only by key personnel authorized by the network administrator.

The LIIDS Project Manager also said that in addition to improving security measures, the revised version of LIIDS also improved the process for tracking and extracting information. For example, additional information,

such as the approval date of employment applications and the date the application package is received in the LIIDS section, are now required fields for entry. The revised version of LIIDS also allows DOLI staff to extract data for required reports faster and in a more simplified format by using preformatted screens.

Examples of benefits of the revised version of LIIDS reported by the LIIDS Project Manager include

- improved capability to locate and extract information on a particular alien worker,
- more accurate identification of aliens because their photographs are captured on file,
- capability to print reports for investigative and other purposes, and
- a history of each alien worker's employment in the CNMI.

In addition to the system changes, the plastic permit cards printed through LIIDS have been changed. The cards still contain the alien's LIIDS number, full name, citizenship, gender, birth date, employer, occupation, and the issuance and expiration dates, but the following information was also added:

- To differentiate between alien workers and other immigration classifications, a blue stripe has been added across the top of all labor (work) permit cards, and a red stripe has been added to the top of all other immigration permit cards (e.g., missionaries).
- To reduce the likelihood of counterfeiting, the official seal of the CNMI is embedded in the center background of the card.
- To increase the security features of the cards, two bar codes are printed on the cards. The first bar code encodes the LIIDS number and is located on the bottom left of the card. The second bar has an encoded number to identify the alien's record in the system. This bar code and number are generated by LIIDS and are hidden from data entry personnel. If the two bar codes on the card do not match records in LIIDS, the card could be counterfeit.

Development of the Arrival and Departure Component

According to CNMI officials, the CNMI needed additional information not contained in LIIDS. Specifically, the CNMI still needed a system that would record alien arrivals and departures and identify those aliens who remain in the CNMI longer than authorized. The LIIDS Project Manager identified an existing system—Border Management Systems (BMS)²⁸—that he stated

²⁸BMS is being used in Laos.

could meet the CNMI's immigration requirements and run on the newly upgraded LIIDS infrastructure. The system stores records of all persons entering the country and records data on aliens who have been authorized to extend their stay in the country. Users of BMS enter arrival and actual departure data from arrival and departure cards from major ports-of-entry.

In addition to being compatible with LIIDS, BMS could incorporate an "alert list" made up of names that the CNMI has compiled, as well as INTERPOL notices. The CNMI Immigration Division does not currently have access to any watch lists. In addition, BMS will match arrival and departure data that will allow the Immigration Division to identify persons who have stayed longer than permitted.

According to the LIIDS Project Manager, the estimated cost for the BMS software and hardware is \$543,924.²⁹ The CNMI has \$166,703 left from its original \$1.5 million grant from OIA, leaving a balance of \$377,221. The LIIDS Project Manager said that once BMS is funded, hardware can be purchased, the system can be installed, staff can be trained, and the system can be operational within a few months. In commenting on the draft report, CNMI officials stated that the CNMI will be funding the project locally and hope to have BMS operational in July 2000.

CNMI Government Actions to Improve its Immigration System

According to CNMI government officials, the CNMI administration has given priority to enforcement of labor and immigration laws. The officials told us that DOLI and the CNMI Attorney General's Office were investigating and pursuing labor and immigration cases. According to these officials, this has led to increased enforcement activities, such as surprise inspections at work sites³⁰ and a multiagency effort to reduce crime in tourist areas. In addition, legislation has been passed to provide greater control over labor and immigration and to improve working conditions for alien workers in the CNMI. The legislative changes include the following:

²⁹ In addition to the BMS software, the new system will also include a wide area network to link CNMI Immigration sites and "Border Guard" passport readers.

³⁰ CNMI officials said that the Northern Mariana Islands District Court ruled that these inspections were unconstitutional (C.A. 99-0018). As a result, these inspections have been halted, and DOLI is redrafting the statutes to satisfy the court.

- Public Law 11-6,³¹ effective March 1998, imposes a moratorium on the hiring of alien workers. It also allows alien workers already in the CNMI to transfer from one employer to another.
- Public Law 11-33, effective December 1998, provided a period of limited immunity during which illegal aliens had the opportunity to register to enable them to become lawfully employed.³²
- Public Law 11-66, effective February 1999, provides compensation and repatriation capabilities for alien workers who have been awarded damages that are not collectable.
- Public Law 11-69, effective March 1999, requires alien workers to exit the CNMI periodically before reemployment in the CNMI and limits their stay in the CNMI to 3 consecutive years.³³
- Public Law 11-76, effective March 1999, imposes a cap on the number of alien workers in the garment industry. Combined with the Moratorium Law (P.L. 11-6), this law is intended to decrease the number of alien workers in the garment industry.
- Public Law 11-123, effective February 2000, grants the CNMI Customs Division the authority to deny the issuance of a certificate of origin on exports from any the CNMI garment factory found in violation of U.S. and the CNMI labor protection laws.³⁴

In addition to these legislative reforms, DOLI issued regulations in 1998 to prohibit security and manpower firms from hiring workers from outside the CNMI as a means to reduce recruitment fraud in which prospective alien workers paid fees for jobs in the CNMI that did not exist. The CNMI government also increased efforts to work with federal law enforcement agencies in the CNMI to address labor and immigration problems. For example, DOLI has been working with the INS representative in the CNMI to increase the training opportunities for CNMI Immigration Division staff.

Recent Legislative Actions

The CNMI House of Representative recently passed a bill (H.B. 12-39) that would, among other things, eliminate the moratorium on the hiring of alien

³¹ P.L. 11-6 grants the CNMI Governor the authority to grant exemptions from the moratorium for certain purposes. In commenting on this report, the Department of the Interior stated that the Governor has granted over 2,384 exemptions.

³² In commenting on this report, the Department of the Interior stated that aliens who were granted this limited immunity could apply for a temporary work permit, and the Moratorium Law (P.L. 11-6) did not prohibit employers from hiring them.

³³ After remaining outside of the CNMI for at least 6 months, they can become eligible to return to the CNMI to work. Those alien workers holding "professional" or "executive" positions who earn \$30,000 per year or more are exempt from this law.

³⁴ These laws include the Nonresident Workers Act, the CNMI Minimum Wage Act, and the Federal Occupational Health and Safety Act.

workers (P.L. 11-6), repeal the cap on the number of alien workers in the garment industry (P.L. 11-76), and repeal Public Laws 11-69 and 11-123 in their entirety. Staff of the CNMI Governor's Office stated that even if H.B. 12-39 passes the Senate, the Governor is committed to the cap on the number of garment factory workers and will not approve any legislation that impairs controls on the number of alien workers in the CNMI. Because the CNMI Governor cannot line item veto a nonappropriations bill, he would have to veto the entire bill should it pass the CNMI Senate.

Customs Operations in the CNMI

The CNMI Customs Division inspects all imports from Asian countries and randomly inspects imports coming from the United States and other non-Asian countries. According to the Director of the CNMI Customs Division, garments manufactured in the CNMI account for about 99 percent of the CNMI's exports. The CNMI Customs Division has production verification and inspection procedures in place to ensure the proper reporting and declaration of garment factory exports. Further, all other exports are inspected to verify the value of the goods being returned or sold outside of the CNMI for purposes of excise tax refunds.³⁵ Data on imports to the CNMI are generally not available,³⁶ but data are available on the value of garments exported to the United States. The U.S. Customs Service has conducted some joint investigations with the CNMI Customs Division and, on the basis of these investigations, identified no diversions, transshipments, or other violations of U.S. Customs laws.

CNMI Imports and Customs Procedures

The CNMI Customs Director told us that about 60 percent of the goods imported into the CNMI are general merchandise goods for stores and construction materials. These goods are primarily imported from the United States, the Philippines, Taiwan, Korea, Hong Kong, and China. The remaining 40 percent of the goods imported into the CNMI are textiles, equipment, and accessories for use in the CNMI's garment factories. The primary sources of these goods are Hong Kong, Korea, and Taiwan.

The CNMI Customs Director told us that goods imported from Asian countries are to be considered "high risk".³⁷ Therefore, all containers arriving at the seaport from Asian countries are inspected. In contrast,

³⁵ Excise taxes are imposed on the goods when they first enter the CNMI.

³⁶ The CNMI Customs Division does, however, maintain data on fabric imported for use in the CNMI's garment factories.

³⁷ Asian countries are considered high risk because of the increased likelihood that there will be unreported goods or that the values listed for the imported goods will be understated.

containers of general merchandise imported from the United States³⁸ and other non-Asian countries are randomly inspected.

When goods arrive at the seaport, CNMI Customs agents are to board the vessel and collect all required documents for the imported goods, including bills of lading. The Customs agents are to review and date stamp the paperwork. The appropriate consignees or their authorized agents are then informed by the carrier's agent that their goods have arrived at the seaport and are ready for inspection. When the consignees or their agents arrive at the CNMI Customs Office to clear their imported goods, CNMI Customs agents determine if the imported goods are taxable or not. If the goods are taxable, the CNMI Customs Division assesses duties. Importers have 30 days to pay for the assessed goods, after which penalties and interest are imposed, and future incoming goods may be held until taxes are paid. After the paperwork is processed, the consignees or their agents proceed to the inspection area.

During the inspection of an imported cargo container, CNMI Customs agents are to review the related bill(s) of lading for the container to ensure that the seal number and container number on the bill(s) of lading match the container and to ensure that the seal on the container has not been broken.³⁹ If the Customs agents decide to inspect the contents of the container, the seal is broken and the container is opened. The agents are then to compare the contents of the container with the information on the bill(s) of lading, invoice(s), and the shipping list(s) to ensure that all imported goods have been declared.

CNMI Exports and Customs Procedures

The CNMI Customs Director estimated that garments manufactured in the CNMI's garment factories account for about 99 percent of the goods exported from the CNMI. Although no specific data are available, the CNMI Customs Director stated that most garments are exported to the United States, with a small percentage of the garments exported to countries like Canada and France. The remaining 1 percent of exports consists of general merchandise goods that are being exported or sold to a buyer outside of the CNMI by stores within the CNMI that had originally imported the goods. CNMI Customs agents are required to inspect all containers of goods being returned to verify the appropriate tax refunds and to randomly inspect containers of garments to be exported.

³⁸ According to the CNMI Customs Director, all goods imported into the CNMI from the United States are shipped via Guam rather than shipped directly to the CNMI.

³⁹ A broken seal is an indication of possible tampering with the contents of the container.

The CNMI Customs Division maintains data on the volume of and wholesale value of exported garments and collects user fees on these goods. Table 5 shows data on the value of the CNMI's garment exports to the United States for fiscal years 1987 through 1998. The data show that the values of the garment industry's exports to the United States have increased almost 15 times during this period. In 1998 dollars, the increase was about 12 times for the same period.

Table 5: Data on the Value of Garments Exported from the CNMI to the United States During Fiscal Years 1987 Through 1998

Fiscal year	Export value ^a (millions)	Export value in 1998 dollars ^a (millions)
1987	\$67.3	\$79.9
1988	131.3	151.7
1989	121.7	137.2
1990	156.6	171.9
1991	264.4	285.0
1992	278.7	294.4
1993	296.7	309.5
1994	319.2	331.6
1995	419.1	431.9
1996	513.7	522.6
1997	792.5	799.0
1998	994.6	994.6

Note: In calculating the constant dollar calculation (in 1998 dollars), we used the relevant components from the producer price index, which reflects producer prices from a U.S.-based perspective. No similar index exists using CNMI prices. Had there been a CNMI-based index, the results of the constant dollar calculation might have been different.

^aValues are based on wholesale prices.

Source: CNMI Department of Finance.

According to U.S. Customs officials, U.S. exports to the CNMI are not subject to U.S. Customs export controls. The U.S. Customs Service does not have authority to inspect cargo in the CNMI, but officials in the U.S. Customs' Office of Investigations told us that they have no indication that the CNMI is violating U. S. export control laws (e.g., diversions). The CNMI Customs Director told us that, although businesses and retail stores in the CNMI import computers and other technology goods from the United States, none of these goods are subsequently exported to a third country. According to the Customs Director, the only company in the CNMI that imports goods from the United States that are subsequently exported is a licensed beverage distributor that imports beer and soft drinks from the United States for export to other islands in Micronesia.

Because garment manufacturing accounts for almost all of the CNMI's exports, the CNMI Customs Division focuses most of its inspection efforts on verifying the production capabilities of the garment factories and the

Sanctions Issued for Customs Violations

amount of imported fabric that the garment factories are using.⁴⁰ When garment manufacturers export garments, they are required to prepare a number of documents to verify, among other things, the quantity of fabric used, the type(s) of garments manufactured, and the wholesale value of the goods manufactured. Before garments can be certified for export, an agent from the Customs Garment Section is to review these export documents to verify how much imported fabric the garment factory used (in yards or pounds) to produce the finished products by comparing the export documents to Customs' records of fabric on-hand for the garment factory to ensure they reconcile. In addition, agents in the Customs Garment Section are to verify the value of the goods to be exported.

According to CNMI Customs officials, sanctions are entered into a computer system, and hard copies of the sanctions are retained.⁴¹ The Customs Division provided us a listing of all sanctions levied in 1998 and 1999 (see table 6). The CNMI Customs Director stated that sanctions can range from a letter of reprimand to a fine of \$10,000.

Table 6: Sanctions Issued for Violations of CNMI Customs Regulations in 1998 and 1999

Year	Number of letters of reprimand	Monetary fines	
		Number of fines	Total value of fines
1998	23	37	\$20,025
1999	27	45	\$47,350
Totals	50	82	\$67,375

Source: CNMI Customs Division.

The data did not include the reasons for the sanctions issued; however, the CNMI Customs Director stated that the sanctions were for unreported goods and added that the vast majority of the sanctions were levied against small stores or businesses, with very few sanctions levied against garment factories. The Customs Director added that because the garment factories can import fabric to be used in garment manufacturing duty-free, the limited violations the garment factories have had have been for undeclared taxable goods, such as sewing machines and other equipment used in the manufacturing of garments.

Joint U.S. and CNMI Customs Investigations

According to officials within U.S. Customs' Office of Investigations, fraud, diversions, or transshipments of goods involving the CNMI do not appear to be a problem. Since 1996, officials from the U.S. Customs Service have

⁴⁰ Because fabric imported into the CNMI for use in garment factories is duty free, CNMI Customs tracks the quantities of the fabric used to ensure that it is being used for manufacturing garments and not for resale purposes.

⁴¹ The CNMI Customs Compliance Section processes the sanctions.

conducted 16 investigations in the CNMI in cooperation with the CNMI Customs Division. U.S. Customs provided summary information on four of these cases. Three cases involved narcotics smuggling, and the fourth case involved a fugitive who fled the CNMI with \$10,000 in stolen money. U.S. Customs cited no cases involving transshipments or diversions of U.S.-protected goods. An Executive Director within U.S. Customs' Office of Investigations told us that transshipments were unlikely due to (1) the relatively inexpensive labor available in the CNMI, (2) the authorization to put "Made in USA" labels on garments manufactured in the CNMI, and (3) the fact that no quotas or duties are placed on CNMI-manufactured garments exported to the United States.

Further, U.S. Customs investigations of CNMI garment factories' production capabilities have not uncovered any problems. One of the most recent joint U.S. and CNMI Customs investigations took place in September 1998. U.S. and CNMI Customs officials reviewed shipments of raw textile materials being imported into the CNMI by garment factories to determine if garment factories were transshipping finished textile products through the CNMI with the intent to obtain the duty- and quota-free status that garments manufactured in the CNMI receive. The review was implemented simultaneously in two areas.

- First, physical examinations were conducted on a limited number of containers that were labeled as containing raw materials being imported for production by the garment factories. During the review, U.S. and CNMI Customs officials conducted physical examinations of 51 containers that had arrived from Hong Kong, Taiwan, Korea, and Japan. Additionally, the Customs officials reviewed CNMI Customs garment factory records and conducted visits to garment factories.
- Second, U.S. Customs officials reviewed entry documents, balance logbooks, and field container inspection reports and interviewed various CNMI Customs officials in order to identify fraud involving the shipments of garments through the CNMI.

U.S. Customs officials said that this investigation did not uncover any evidence of garment transshipments. These officials noted, however, that the investigation identified gaps in CNMI Customs' procedures that could allow for possible transshipments to occur. For example, containers are only randomly reviewed on export, meaning that CNMI Customs agents do not routinely physically verify quantities of garments exported.

On the basis of the garment factory investigation, U.S. Customs said that CNMI Customs inspections were generally thorough. U.S. Customs

officials also said that the importers' representatives and the laborers who unloaded the containers appeared very familiar with the way CNMI Customs agents operated and that CNMI Customs agents appeared to be well-respected by both management and labor at the garment factories. The U.S. Customs officials said that the possibility of finished garments arriving in, or being concealed within, inbound garment factory containers appeared low.

The U.S. Customs Service did, however, make several recommendations for improving CNMI Customs' inspection procedures on the basis of its assessment of the export controls in place during the September 1998 investigation. Table 7 below summarizes U.S. Customs' recommendations and the actions the CNMI officials stated it has taken in response to those recommendations.

Table 7: Information on U.S. Customs Service Recommendations and Actions Taken by the CNMI Customs Division to Implement the Recommendations

U.S. Customs Service recommendation	Action taken by the CNMI Customs Division
Amend the CNMI Customs regulations so that consignees are not required to be present during examinations of containerized cargo.	CNMI Customs has proposed amending the regulations to permit inspections with or without the presence of the consignee or his/her authorized agent.
Abolish "conditional releases" in which cargo containers were released to consignees under seal to be inspected at the consignees' premises at a later time.	The conditional release to consignees' premises for inspection ceased when CNMI Customs moved into its new facilities at the seaport in June 1999.
Establish a CNMI Customs Containerized Freight Station at the seaport for inspections of all containerized cargo, rather than sending Customs inspectors to the consignees' premises.	CNMI Customs has established a containerized freight station at its seaport facilities in which suspected containers are examined.
Reevaluate the process used by the CNMI Customs Garment Section for verifying yards of fabric used and its correlation to pieces produced to make the process more consistent.	CNMI Customs is working on this. It plans to conduct a survey of the garment factories to determine types of garments produced and the amount of fabric used to produce those garments in order to make the verification process consistent.
Increase the examinations of outbound containerized cargo from the garment factories to verify quantities of exported goods	Garment factory production schedules are submitted to the CNMI Customs Garment Section on a biweekly basis. These production schedules are used by CNMI Customs agents to conduct unannounced visits to the factories to verify the production, as well as to conduct inspections of out-bound containers of finished goods.
Computerize the balance logbooks that are maintained on each garment factory and input field inspection reports into this system for cross-reference purposes.	Customs is currently pursuing the funds needed to purchase the computer systems and software, but funds are currently not available locally.
Provide formal training to Garment Section agents on (1) how to determine garment production capabilities, and (2) indicators of transshipments.	CNMI Customs has contacted the Saipan Garment Manufacturing Association to identify agencies specializing in garment manufacturing to provide training. In addition, CNMI Customs is also seeking assistance from U.S. Customs to provide training.
Ensure that the Customs certification stamps and seals are not accessible to the public and are only used by authorized CNMI Customs officials.	The CNMI Customs Director issued a written directive to Garment Section staff outlining these requirements. In addition, the Secretary of Finance reiterated these requirements in a written directive.

Source: U.S. Customs Service and the CNMI Customs Division.

Violation of CNMI Procedures

On January 19, 2000, we visited the CNMI Customs Division's Garment Section in the course of obtaining documentation on the procedures used by CNMI Customs for certifying exports of garments to the United States. Upon entering the Garment Section, we saw an employee of one of the garment factories using an official CNMI Customs stamp to certify the factory's export documents. U.S. Customs officials had also noted this when they visited the CNMI in September 1998. We brought this to the attention of the CNMI Customs Director, as well as staff within the CNMI

Governor's office. The CNMI officials said that this was a clear violation of CNMI Customs procedures. In response to the incident, the CNMI Customs Director issued a written directive the following day stating that no customer is allowed to stamp or seal export documents and that all official stamps should be placed in a drawer out of reach of customers and taken out only by Garment Section staff when needed to stamp documents. The Customs Director also warned that staff who failed to abide by the directive could face disciplinary action. All Customs Garment Section staff were then required to initial and date the directive to acknowledge the requirements. In addition, the Customs agent who was responsible for the incident submitted his resignation. Staff from the CNMI Governor's Office researched the matter and told us they determined the Garment Section staff did follow remaining procedures to ensure the export documents were accurate. In addition, the staff informed us that the Customs Division rotated its Customs agents on a regular basis to ensure that the agents did not become overly familiar with the customers or lax in their duties.

Aliens' Use of Public Health Care and Public Education and Their Involvement in Criminal Activities

Aliens accounted for 58 percent of the population of Saipan in 1999, 26 percent of the fiscal year 1999 public health care expenditures, and about 11 percent of the public school system's operating costs for the 1999-2000 school year. The arrest data for the five most frequent crimes in the CNMI show that aliens accounted for between 44 and 69 percent of the arrests for these crimes, and these percentages roughly align with the aliens' proportion of the CNMI's population.

Health Care Issues Regarding Aliens

According to the CNMI Department of Public Health, tuberculosis (TB), the human immunodeficiency virus (HIV), and syphilis are a threat to the overall health of the population of the CNMI. The Department of Public Health reported that the rapid influx of poorly screened and monitored alien workers has contributed to these growing disease rates. In commenting on the draft report, CNMI officials said that it has instituted a comprehensive screening system that requires both testing in the home country prior to entering the CNMI and again within 10 days of entering the CNMI. This permits the Department of Public Health to identify and refer for treatment alien workers to prevent the spread of infectious diseases.

According to Department of Public Health staff, no one in the CNMI is denied health care on the basis of citizenship or ability to pay. In addition, according to the CNMI's Nonresident Workers Act, employers are required to pay for all medical expenses of alien workers. As a result, the expense for any health care provided to an alien worker is to be borne by the

Health Trends of Aliens with Infectious Diseases in the CNMI

employer. Thus, aliens who enter as visitors and overstay would have no insurance but would be treated.

As shown in table 1, aliens accounted for 58 percent of the population of Saipan in 1999. In contrast, data from the Department of Public Health show that aliens accounted for 26 percent of the visits to and related expenditures for the Department of Public Health in fiscal year 1999.⁴²

According to a draft of the Department of Public Health's annual report for 1997-1998,⁴³ the CNMI's current health care system was developed to meet the demands of a CNMI population of approximately 20,000 people. The report states that one of the greatest challenges to the CNMI's health care system has been the rapid population growth (see table 1). The annual report further states that, as a result of this unanticipated population increase, the CNMI health care system could not provide adequate services. The impact of infectious diseases in the CNMI is also a major public health concern, according to the Department of Public Health. The Department attributed this major health concern to the rapid influx of poorly screened and monitored alien workers who have higher rates of TB, HIV, and syphilis than the indigenous population of the CNMI.

TB continues to be a major health threat in the CNMI. According to the Department of Public Health, although the majority of active TB cases involved alien workers, TB among the indigenous population continued to increase at a steady rate. Of the alien workers who have developed active TB, most of them were already living in the CNMI before they developed active TB, or it was inactive at the time of their arrival. The Department of Public Health further reported that in 1998, 93 of the 110 diagnosed active TB cases were from the CNMI's alien population. In 1999, 58 of the 66 diagnosed active TB cases were from the CNMI's alien population.

The number of reported TB cases in the CNMI increased from 1996 to 1998 (see fig. 1). Because of the increase in the number of alien workers, in 1996 the Department of Public Health developed regulations requiring the screening of alien workers for TB, as well as HIV and syphilis.⁴⁴ This

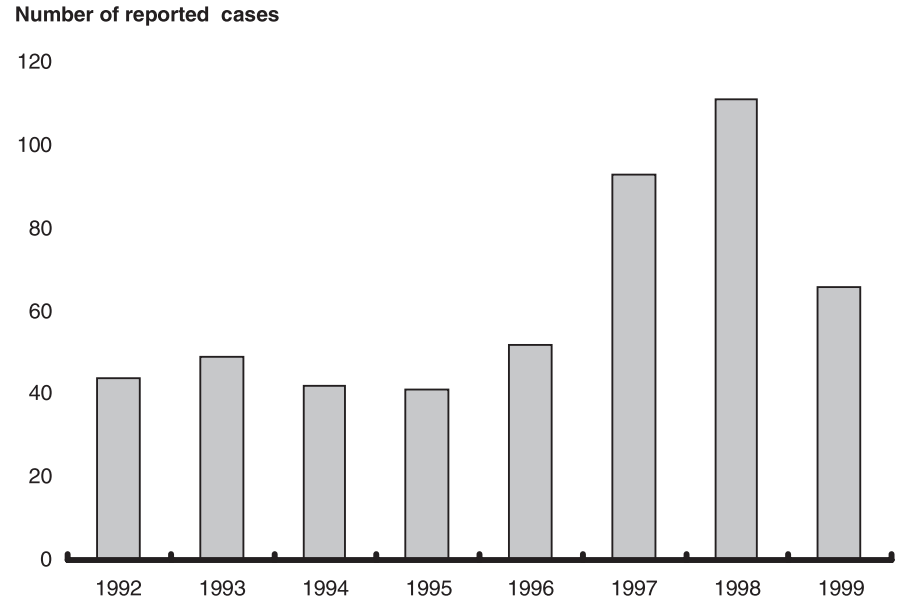
⁴² We do not know if aliens were receiving needed health care at facilities other than those operated by the Department of Public Health, or if the aliens were not in need of health care.

⁴³ The draft report is dated February 4, 2000.

⁴⁴ The delay between the development of the regulations in 1996 and the implementation of the Alien Health Screening Program in February 1998 was mainly due to the concerns by the prior CNMI administration regarding the financial burden being placed on the business community to pay for the Program.

increased screening contributed to the reported increase in TB cases from 1996-1998.

Figure 1: TB Cases in the CNMI, 1992-1999



Source: CNMI Department of Public Health.

According to the CNMI Department of Public Health, the true incidences of HIV and syphilis are not clear. Although the Department of Public Health has mandated that these diseases be reported, the Department stated that several factors make the reported rates of these diseases questionable. One such factor has been the increase in Chinese “clinics.” The Secretary of Public Health stated that many Chinese workers in the garment factories are not familiar with Western medicine and medical care and may seek treatment from a Chinese clinic rather than report to a Department of Public Health facility.

Investigative staff from the Department of Public Health visited known clinics to inspect their facilities and ensure that the clinics were not dispensing prescription drugs or practicing medicine without a license. However, the Secretary of Public Health recognized that an unknown number of these clinics were operating in private homes and had not been inspected.

Alien Health Screening Program

The CNMI Department of Public Health reported that many alien workers and their families were coming from countries that have endemic infectious diseases that could ultimately become a public health concern

for the residents of the CNMI. Furthermore, the Department of Public Health found that diseases transmitted by alien workers frequently originated from infected workers who showed little outward appearance of being ill. As a result, infected alien workers could transmit a wide range of communicable diseases and infections to other alien workers and the general public. To deal with these health concerns and the increasing rate of TB among alien workers, the Department of Public Health instituted a mandatory health screening program for all alien workers in the CNMI. Effective February 25, 1998, the CNMI Department of Public Health's Alien Health Screening Program required all alien workers and their families already present in the CNMI to be screened for TB, HIV, and syphilis. The Alien Health Screening Program also required health screens for aliens within 10 days of entering the CNMI, and every year thereafter for those aliens remaining in the CNMI.⁴⁵

According to the rules governing the CNMI's Alien Health Screening Program, alien workers are required to schedule an appointment for a physical examination with a physician approved by the Department of Public Health within 10 days of their arrival in the CNMI.⁴⁶ These health screens are in addition to the required medical examinations that prospective alien workers are required to have in their home countries prior to coming to the CNMI. The physical examinations conducted in the CNMI by private clinics as part of the Alien Health Screening Program involve tests that screen for TB, HIV, and syphilis. The costs of the physical examinations and screening tests for alien workers are to be paid by the aliens' employers. Results of the physical examinations are to be provided to the worker and the Department of Public Health within 45 days from the date of the examination. The Department of Public Health then has up to 10 working days from receipt of the physical examination form to determine whether the alien worker qualifies to receive a health certificate. If the alien worker is found to be physically fit, in good health, and free from the screened communicable diseases, the worker receives a health certificate good for 1 year from the date it was issued. At the end of the year, if the alien intends to remain in the CNMI, he or she is required to undergo testing again to receive a new certificate for another year. The cost of the health certificate is \$20 and is to be paid by the employer.⁴⁷ If

⁴⁵ The categories of aliens covered by the Alien Health Screening Program include alien workers, the immediate relatives of alien workers, and aliens who are employed by the CNMI government.

⁴⁶ According to CNMI officials, any physician, health maintenance organization, or other CNMI medical provider licensed by the Medical Profession Licensing Board can provide the health screenings.

⁴⁷ According to the Secretary of Public Health, the CNMI Government has collected about \$1.3 million in health certificate fees since the inception of the Alien Health Screening Program in February 1998. He added that it takes about \$600,000 a year to operate the Alien Health Screening Program.

the alien worker tests positive for any of the communicable diseases, the alien will receive a health certificate subject to a treatment regimen. If the alien worker fails to comply with the treatment regimen, the Department of Public Health will recommend to DOLI that the worker be deported. According to data provided by DOLI, only two aliens have been deported since the inception of the Alien Health Screening Program for noncompliance with the prescribed treatment regimen. Both aliens had tested positive for TB.

In addition to screening alien workers, the Department of Public Health also requires physical examinations and health screens for the dependents of alien workers living in the CNMI. The same rules that apply to alien workers apply to their dependents, except that dependents who are age 15 and under are screened only for TB. These dependent minors, however, do need to have documentation that they have received all the childhood immunizations required by the Department of Public Health. The other difference is that depending on the agreement between the alien worker and the employer, the alien worker may have to pay for the health screens and health certificates for any dependent.

Results of the Alien Health Screening Program

Since February 25, 1998, the total number of alien health screens conducted through the end of 1999 was 70,161. Table 8 shows data on the numbers and results of the alien health screens conducted in 1998 and 1999.

Table 8: Data on the Results of Alien Health Screenings for 1998 and 1999

Year	Health screens	TB		HIV		Syphilis	
		Cases referred	Positive cases	Cases referred	Positive cases	Cases referred	Positive cases
1998	37,280	309	93	6	6	170	96
1999	32,881	165	58	20	3	105	36

Note: Referred cases are those where initial tests showed possible infection.

Source: CNMI Department of Public Health.

Aliens' Access to and Use of Public Health Care

According to the Department of Public Health, no one in the CNMI is denied health care that can be provided in the CNMI on the basis of citizenship or ability to pay. Health care benefits differ, however, depending on the status of the individual (i.e., citizen or alien). CNMI citizens are eligible to participate in the Medical Referral Program within the Department of Public Health. Under this program, the Department facilitates the referral of patients to recognized health care facilities

outside the CNMI for extended medical care.⁴⁸ This program is designed to provide CNMI citizens with a means of receiving medical care and treatment that is not available in the CNMI.

In commenting on this report, CNMI officials noted that alien workers also qualify for the Medical Referral Program, but the costs of the referrals are the responsibility of the employer. If an alien worker needs further medical attention, the alien's physician is to present the case to the Medical Referral Committee. In turn, the Committee is to make the decision on whether to refer the alien worker off-island or not, purely on the basis of medical justification. Most medical referrals of alien workers usually go to Manila, Philippines, because of the immigration issues related to entering either Guam or Honolulu (where most of the CNMI citizen medical referrals are sent). If the case is a medical emergency, the CNMI has been able to obtain permission from INS to have the patient enter Guam for medical treatment. Also, according to the CNMI officials, there have been cases in the past where the CNMI would send an alien worker off-island for medical referral who also happens to be either unemployed or illegal. In either event, the issue is not status, but the medical needs of the patient.

In addition to the medical referral program, CNMI law requires employers to acquire bonding on each employee. Part of the bond covers \$3,000 in medical expenses or the expenses of embalming and repatriation.⁴⁹ Further, the Department of Public Health's Medicaid Program does not pay health care benefits for alien workers or their dependents, but it will cover the dependents of alien workers who are born in the CNMI and are thus citizens.

Officials from the CNMI Department of Public Health had no specific data, but they estimated that about 15 percent of the alien patients reporting to the Department of Public Health facilities during 1998 and 1999 were either unemployed or illegal aliens whose medical costs may have had to be borne by the CNMI government.

Available population and patient data show that comparatively few aliens visit Department of Public Health facilities for treatment compared to the

⁴⁸ For example, the Department of Public Health has agreements with medical facilities in Guam; Hawaii; and San Diego, CA, for providing medical care to CNMI residents that cannot be provided in the CNMI.

⁴⁹ According to CNMI officials, these bonds are purchased by employers from private sector insurance agencies who sell bonds that conform to the standards required by the alien labor rules and regulations. Thus, there is no CNMI Government bond fund, and each private company that sells the bonds maintains its own funds.

resident (citizen) population. Although aliens accounted for about 58 percent of the population of Saipan in 1999, as shown in table 9, they accounted for between 26 and 29 percent of the patient visits to Department of Public Health facilities each year during 1994 through 1999. In contrast, although they accounted for 42 percent of the Saipan population in 1999, CNMI citizens accounted for between 71 and 74 percent of the patient visits to Department of Public Health facilities each year during 1994 through 1999.

Table 9: Data on the Allocation of CNMI Public Health Care Expenditures, by Number of Visits, for Fiscal Years 1994 through 1999, by Citizenship Category

Year	U.S. citizens/residents ^a			Aliens ^b			Totals	
	No. of visits	Percent of visits	Expenditures ^c	No. of visits	Percent of visits	Expenditures ^c	No. of visits	Expenditures
1994	113,037	73	\$18,236,905	42,565	27	\$6,867,255	155,602	\$25,104,160
1995	103,414	73	19,844,330	37,397	27	7,176,189	140,811	27,020,519
1996	101,670	73	21,895,317	37,281	27	7,985,642	138,951	29,880,959
1997	88,026	72	20,499,700	34,676	28	8,075,427	122,702	28,575,127
1998	93,214	71	22,770,271	38,389	29	9,377,647	131,603	32,147,918
1999	91,344	74	24,863,215	32,158	26	8,753,189	123,502	33,616,404

Notes: Data on patient visits and expenditures are as of the end of each fiscal year (Sep. 30th). The expenditure data do not include medical referrals or Medicaid expenses.

^aIncludes those born in the CNMI, U.S. citizens born outside the CNMI, and permanent resident aliens.

^bIncludes aliens, alien workers, those with no U.S. passport or permanent resident card, and other patients—mainly Micronesians, Pacific islanders, and people from the FAS.

^cThe public health care costs for each of the citizenship categories for each year were approximated by taking the total expenditures and dividing that by the total number of visits to come up with an average cost per patient visit. This figure was then multiplied by the relevant number of patient visits per year to arrive at the public health care costs for each citizenship category.

Source: CNMI Department of Public Health.

According to the Secretary of Public Health, alien workers may account for such a comparatively low percentage of the patient visits because the vast majority of the alien workers in the CNMI are young (in their 20s); do not have chronic diseases (e.g., diabetes); and do not need frequent care. Another factor that could explain this is that alien workers may be receiving needed health care at facilities other than those operated by the Department of Public Health—such as Chinese clinics.

Aliens’ Use of CNMI Public Schools

The alien student population in the CNMI Public School System is not proportional to the overall alien population in the CNMI.⁵⁰ Survey data show that aliens have accounted for the majority of the population of the CNMI in recent years. However, data collected by the CNMI Public School System show that alien students have accounted for less than 15 percent of the total student enrollment in the CNMI’s public schools during the past 3 years, and the percentage of alien students has decreased each school year since 1997.

Alien Student Enrollment

The CNMI’s Board of Education requires compulsory school attendance for every child between the ages of 6 and 16, regardless of the student’s citizenship. The first year for which the CNMI Public School System began to collect data on the citizenship of the students enrolled in its schools was 1997. As table 10 shows, the enrollment of alien students in the CNMI Public School System has decreased each year since the 1997-1998 school year. For school year 1999-2000, alien students accounted for about 11 percent of the student population.

Table 10: Citizen and Alien Student Enrollment in the CNMI Public School System for School Years 1997-1998, 1998-1999, and 1999-2000

School year	Citizen students		Alien students ^a		Total students
	Number	Percent	Number	Percent	
1997-1998	7,386	85.3	1,272	14.7	8,658
1998-1999	7,742	86.3	1,230	13.7	8,972
1999-2000 ^b	8,115	88.8	1,028	11.2	9,143

^aIncludes children of alien workers and other nonresidents—mainly Micronesians, Pacific islanders, and people from the FAS.

^bEnrollment data are as of February 2000.

Source: CNMI Public School System.

Impact of Aliens on the Public School System’s Operating Costs

As part of the CNMI government’s austerity program, the current administration has reduced its funding of government programs, including education. The operating budget for the CNMI Public School System has declined each year since the 1997-1998 school year. At the same time the school system’s operating budget has been declining, student enrollment has increased. As a result, the per student operating costs have also decreased each year since the 1997-1998 school year, as shown in table 11. However, the school system has experienced an increase in student enrollment since the 1997-1998 school year due to the growing number of

⁵⁰ One possible reason why the alien student population in the CNMI Public School System is not proportional to the alien population is because anyone born in the CNMI becomes a citizen. Thus, although the parents may be aliens, the children could be citizens.

citizen students. As a result, the operational costs for providing educational services to alien students declined from about \$8.3 million for the 1997-1998 school year to about \$7.3 million for the 1998-1999 school year, and then to about \$6.0 million for the 1999-2000 school year (see below).⁵¹

Table 11: Estimate of the Operating Costs for Educating Citizen and Alien Students in the CNMI Public School System for School Years 1997-1998, 1998-1999, and 1999-2000

School year	Total enrollment	Total operating budget ^a	Per student operating costs ^b	Citizen students		Alien students ^c	
				Number	Operating costs ^b	Number	Operating costs ^b
1997-1998	8,658	\$56,616,832	\$6,539	7,386	\$48,297,054	1,272	\$8,317,608
1998-1999	8,972	53,091,133	5,917	7,742	45,809,414	1,230	7,277,910
1999-2000	9,143	53,024,322	5,799	8,115	47,058,885	1,028	5,961,372

^aThe CNMI Public School System's operating budget figures exclude small amounts of revenues from donations, tax credit gifts, interest earned, program revenues from federal school meal programs, or local tax revenues dedicated to assist school meal programs.

^bAll costs have been rounded to the nearest whole dollar. Because of rounding, the sum of the operating costs for citizen and alien students may not equal the total operating budget.

^cAccording to a CNMI study, FAS residents made up 4.4 percent of the CNMI's population but accounted for 7.8 percent of fiscal year 1998 public school costs.

Source: CNMI Public School System.

Involvement of Aliens in Criminal Activities

Table 12 compares the arrest rates for citizens and aliens in 1996 and 1997.⁵² Aliens comprised between about 44 percent and 69 percent of the arrests for the five most frequent crimes in the CNMI in those years for which data were available, and these percentages roughly align with the aliens' proportion of the CNMI population.

⁵¹We did not include data on capital costs because they were not available.

⁵²Arrest data were available only by ethnicity. Therefore, citizens consist of Chamorros and Carolinians—the two ethnic groups indigenous to the CNMI—and Caucasians. Other ethnic groups, such as Filipinos and Chinese, are considered aliens.

Table 12: Data on Arrests for the Five Most Frequent Crimes in the CNMI, by Citizenship, for July–December 1996 and 1997

Arrest/citizenship category	July-December 1996		July-December 1997		Total	
	Number	Percent	Number	Percent	Number	Percent
Assault						
Citizens	69	39.9	128	41.6	197	41.0
Aliens	104	60.1	180	58.4	284	59.0
Burglary						
Citizens	5	31.3	13	50.0	18	42.9
Aliens	11	68.8	13	50.0	24	57.1
Criminal mischief						
Citizens	18	51.4	32	56.1	50	54.3
Aliens	17	48.6	25	43.9	42	45.7
Disturbing the peace						
Citizens	75	38.3	104	43.2	179	41.0
Aliens	121	61.7	137	56.8	258	59.0
Theft						
Citizens	27	39.1	46	47.9	73	44.2
Aliens	42	60.9	50	52.1	92	55.8
Totals						
Citizens	194	39.7	323	44.4	517	42.5
Aliens	295	60.3	405	55.6	700	57.5
Overall totals	489	100.0	728	100.0	1,217	100.0

Note: Arrest data were available only by ethnicity. Therefore, in this table, citizens consist of Chamorros and Carolinians—the two ethnic groups indigenous to the CNMI—and Caucasians. Other ethnic groups, such as Filipinos and Chinese, are considered aliens.

Source: CNMI Statistical Analysis Center.

Criminal Background Checks Required for Entry and Renewal of Permit cards

As previously discussed, each alien worker is required to have a criminal background check conducted in the alien's home country as part of the CNMI's approval process for allowing alien workers entry into the CNMI. In addition to the background check for criminal activity provided by the alien before or when entering the CNMI, the Department of Public Safety is to perform a check for criminal activity in the CNMI for each alien worker who remains beyond 1 year. This check is done as part of the permit renewal process. If the alien worker is found to have been convicted of a crime, such as a felony or two or more misdemeanors, the alien can be deported. Data provided by DOLI showed that two aliens were deported in 1998 and five aliens were deported in 1999 because they had felony convictions.

Conclusion

Alien workers are required to provide the results of criminal background checks from their home countries to CNMI Immigration officials personally when they enter the country or to have the results sent directly to DOLI officials by their home countries. According to the Acting Director of Immigration, law enforcement agencies in Hong Kong and South Korea provide the results of criminal background checks for prospective

employees directly to DOLI. In contrast, alien workers from the Philippines and China bring the results of their criminal background checks with them to the CNMI. Although no data are available on the number of alien workers submitting fraudulent criminal history records, the opportunity exists for this to occur when records are carried by hand. Furthermore, the CNMI does not have any practical means to verify the criminal histories of arriving alien workers. Exploring the feasibility of having additional home countries' law enforcement agencies send the results of all prospective alien workers' criminal background checks directly to DOLI could reduce the opportunity for fraud. Alien workers with disqualifying criminal histories would not be able to alter the results of the criminal background checks because the documents would not be in their possession. The Acting Director of Immigration indicated that he would prefer to have the law enforcement agencies send the results of all prospective alien workers' criminal background checks directly to DOLI.

Agency Comments

We requested comments on a draft of this report from the CNMI Governor's Office, the Department of the Interior, and INS. In addition, we discussed with U.S. Customs Service officials sections of the draft report that related to its operations involving the CNMI. U.S. Customs officials informed us on April 7, 2000, that they concurred with the report sections pertaining to the U.S. Customs Service's involvement in the CNMI.

CNMI Government

The Governor of the CNMI provided technical comments on a draft of this report on April 7, 2000. The comments have been incorporated into the report, where appropriate.

Department of the Interior

On April 28, 2000, the Deputy Secretary of the Interior for Policy, Management and Budget provided written comments on a draft of this report (see app. II). Overall, the Department of the Interior felt that the report lacked the critical evaluation and analysis to determine whether the CNMI's procedures for processing aliens and merchandise met required standards and that the report could be interpreted as an endorsement of the CNMI's procedures. However, our objectives were not to evaluate the effectiveness of the CNMI's procedures for controlling aliens and merchandise but to discuss the CNMI's policies and procedures for processing aliens and merchandise. We have modified the report to more explicitly state our objectives. A large number of the Department of the Interior's comments fall into concerns about the scope of our work and requests to include data that were not available.

First, the Department of the Interior offered a number of comments related to expanding the scope of our work to address additional topics.

These additional topics were not part of the work and, as such, remain outside the scope of this report. The topics the Department of the Interior suggested we add included:

- an evaluation of the effectiveness of employer-reporting as a means to evaluate the effectiveness of the CNMI's deportation process;
- issues related to labor practices, including the sale of work permits, cash bonding for security guards, and the commitment of the CNMI Government to improve labor conditions for alien workers;
- an evaluation of the effectiveness of LIIDS;
- the lack of agreements reached between federal agencies and the CNMI;
- an assessment of whether the CNMI's labor practices meet standards addressed in Memoranda of Understanding with federal agencies;
- discussion of alleged due process violations; and
- an evaluation of the existence of fraud and malfeasance within the CNMI's Customs and Immigration Divisions.

Second, the Department of the Interior commented that the report should include a more in-depth discussion of crime and prosecution rates, especially as they relate to the alien population. What limited data that differentiate between CNMI citizens and aliens in relationship to crime is shown in table 12. No data were available from the CNMI or the Department of Justice on prosecutions that distinguished between the two groups. Also, in relation to crime, the Department of the Interior suggested adding data on organized crime in the CNMI. According to Justice data, there were no organized crime prosecutions for 1992 through 1999. We could not find any systematic data on organized crime in the CNMI. With respect to deportation data, we have devoted an entire section of the report to deportation of aliens (see pp. 14-15). This section includes the best and most recent data available on both the number of aliens who have been deported in recent years and the reasons for those deportations.

In addition to the above comments, the Department of the Interior made a number of suggestions related to topics discussed in the report. We have included Interior's suggestions in the report, where appropriate. Also, the Department of the Interior provided other comments for which we did not make changes. See appendix II for a more detailed discussion of the Department of the Interior's comments.

INS

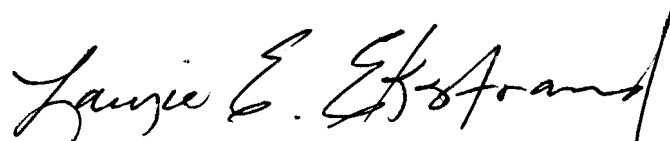
On May 1, 2000, the General Counsel for INS provided written comments on a draft of this report (see app. III). INS stated the administration's position is that the Immigration and Nationality Act (INA) should be extended to the CNMI, with appropriate transition provisions. INS added

that this position is based on policy reasons that have been thoroughly stated by other agencies and INS. Further, INS recognized that we have not been asked to address the policy questions of applying the INA to the CNMI, but rather what are the CNMI's current procedures. Accordingly, INS said our report should clearly state that our objectives were not to address immigration policy issues and thereby avoid creating the impression that we reviewed the procedures and found them effective. We have revised the report to more explicitly state that our objectives did not include discussing the CNMI's immigration policy or assessing the effectiveness of the CNMI's implementation of its immigration laws.

As agreed with your office, unless you publicly announce its contents earlier, we plan no additional distribution of this report until 30 days from its issue date. At that time, we will send copies to Senator Ted Stevens, Senator Robert C. Byrd, Senator Slade Gorton, Senator Peter V. Domenici, Senator Frank R. Lautenberg, Senator Frank Murkowski, Senator Jeff Bingaman, Representative C.W. Bill Young, Representative David Obey, Representative Ralph Regula, Representative Norman D. Dicks, Representative Don Young, and Representative George Miller in their capacities as Chairman or Ranking Minority Member of Senate or House Committees and Subcommittees. We are also sending copies of this report to the Honorable Jacob J. Lew, Director, OMB; the Honorable Bruce Babbitt, Secretary of the Interior; Ferdinand Aranza, Director, Office of Insular Affairs; and the Honorable Pedro P. Tenorio, Governor, Commonwealth of the Northern Mariana Islands. We will also make copies available to others on request.

If you or your staff have any questions concerning this report, please contact me or James M. Blume, Assistant Director, on (202) 512-8777. The other major contributors to this report were Christopher H. Conrad, Kristeen G. McLain, Michael H. Little, and Ann H. Finley.

Sincerely yours,



Laurie E. Ekstrand
Director
Administration of Justice Issues

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Abbreviations

AFE	Authorization for Entry
ATB	Authorization to Board
BMS	Border Management Systems
CNMI	Commonwealth of the Northern Mariana Islands
DEA	Drug Enforcement Administration
DOLI	Department of Labor and Immigration
DPS	Department of Public Safety
FAS	Freely Associated States
FBI	Federal Bureau of Investigation
HIV	human immunodeficiency virus
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
LIIDS	Labor and Immigration Identification and Documentation System
OIA	Office of Insular Affairs
TB	tuberculosis

Federal Agencies Represented in the CNMI

Eight federal agencies have representatives stationed in the Commonwealth of the Northern Mariana Islands (CNMI). The following is a list of these federal agencies, along with a brief description of each agency's roles.

- Department of the Interior's Office of Insular Affairs – Has authority over insular areas like the CNMI that are not explicitly covered by another federal agency.
- Department of Labor, Wage and Hour Division – Investigates and brings charges for violations of overtime pay requirements, child labor laws, and recordkeeping requirements.
- Drug Enforcement Agency (DEA) – Enforces U.S. drug laws and has entered into a Memorandum of Understanding with CNMI's Department of Public Safety (DPS) to form a Joint Task Force that focuses on prevention of drug-related crimes. DEA also assists DPS with local investigations of crimes where drugs are involved and provides training for local law enforcement agencies. DEA also has a Memorandum of Agreement with CNMI Customs. Two CNMI Customs agents are assigned to DEA as taskforce agents.
- Federal Bureau of Investigation (FBI) – Investigates violations of federal laws and provides training, assistance and support to local investigations by CNMI's DPS. The FBI also entered a Memorandum of Understanding with CNMI's DPS to form a Joint Task Force that works on a broad spectrum of crimes. A FBI and CNMI Customs Joint Task Force is being implemented. CNMI Customs is to provide one member to the taskforce.
- Immigration and Naturalization Service (INS) – Provides intelligence to CNMI's DPS concerning illegal activities involving foreign nationals and provides training to Immigration staff.
- National Labor Relations Board – Investigates and brings charges for violations of the National Labor Relations Act, such as employees' rights to form unions.
- United States Attorney's Office – Prosecutes violations of federal laws in the Federal District Court in the CNMI.
- United States Marshal Service – Provides security for the United States District Court and escorts convicts in and out of the CNMI for Federal Court proceedings.

Appendix I
Federal Agencies Represented in the CNMI

In addition to the eight agencies represented in the CNMI, other agencies are available to provide assistance to the CNMI government as needed. For example, the U.S. Customs Service has agents in Guam and Hawaii who can provide assistance to CNMI Customs; the Bureau of Alcohol, Tobacco and Firearms can provide assistance regarding federal firearms laws; the Occupational Safety and Health Administration has staff that come to the CNMI on a periodic basis to conduct investigations; and the Centers for Disease Control and the U.S. Public Health Service both have working relationships with the CNMI Department of Public Health.

Comments From the Department of the Interior

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



THE SECRETARY OF THE INTERIOR
WASHINGTON

Laurie E. Ekstrand, Director
Administration of Justice Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Ekstrand:

Thank you for your April 14, 2000 transmission to the Secretary of the Department of the Interior of the General Accounting Office Report (GAO) entitled "NORTHERN MARIANA ISLANDS: Procedures for Processing Aliens and Merchandise" (GAO/GGD-00-97) (GAO draft). This letter will serve as the Department of the Interior's (Department) comment on the GAO draft.

Although the GAO draft contains a description of the CNMI's procedures relative to the entry and stay of aliens and merchandise, it contains little analysis of whether these procedures fulfill requirements and objectives specified by legislation, Covenant or other commitments made by CNMI. The GAO draft contains little analysis of whether the CNMI should, or could, modify or replace its procedures to perform better. The Department is concerned that despite this lack of critical evaluation and analysis of the procedures, the GAO draft, if finalized in its current form, would be deemed to have given the CNMI's procedures a clean bill of health. However, since this is a descriptive rather than an analytical piece, clearly such a conclusion would not be warranted. To ensure that no such misinterpretation is possible, this limitation in scope ought to be explicitly stated up front.

See comment 1.

The Department would, as a general rule – and in this particular case as well – caution against accepting at face value, without independent verification, information and data obtained from any party. For instance, the GAO draft accepts that the CNMI pre-screens incoming aliens from the Philippines. However, the Philippine Consulate informs us that the CNMI liaison office has been closed since 1998.

See comment 2.

The Department also notes that the GAO draft omits some key background information that ought to be provided to readers of the GAO draft. For instance, it should note that the CNMI House of Representatives repealed, by an overwhelming majority, most if not all of the reform acts listed in the GAO draft (page 31).

See comment 3.

There are other omissions in the GAO draft which ought to be addressed. For instance, although the GAO draft states that the Medicaid program does not pay for alien workers or their dependents, it fails to note that infants born in the CNMI to alien mothers are U.S. citizens and, thus, eligible for public assistance including medicaid. Also, the Department notes that the GAO draft is silent on the

Appendix II
Comments From the Department of the Interior

See comment 4.

presence and role of organized crime, and its relationship, if any, to immigration and merchandise coming into and out of the CNMI.

The Department also recommends that other agencies contacted during the preparation of the GAO draft, e.g. the Immigration and Naturalization Service, the Customs Service, the Department of Labor, and the Centers for Disease Control and Prevention, be given opportunity to comment on the entire GAO draft.

Additional comments are provided in the attachment. The attachment also identifies questions the Department believes should be addressed to help evaluate whether the procedures described in the GAO draft are functioning as intended or expected, and, if not, what can be done to improve them. The Department would, for instance, recommend an in-depth discussion of the prevalence and trends in the crime, deportation or prosecution rates. Such a discussion is important to any determination of how well the CNMI procedures are working. The attachment also provides sources of information which would assist in such an analysis.

On behalf of the Department, I thank you for this opportunity to comment on the GAO draft.

Sincerely,



Lisa Guide
Deputy Secretary of the Interior,
Policy, Management and Budget

Comments on the Draft GAO Report

NORTHERN MARIANA ISLANDS
Procedures for Processing Aliens and Merchandise
(GAO/GGD-00-97)

The Department of the Interior has reviewed the General Accounting Office's (GAO) draft report on *Procedures for Processing Aliens and Merchandise* in the Commonwealth of the Northern Mariana Islands (CNMI)(Draft), and submits the following comments on the findings and methodology. Immigration policies and procedures receive major emphasis as these are central to the Draft.

The Draft defines its mission as "to review CNMI's procedures." However, this review is descriptive but not analytical. Given the absence of analysis, the Department is concerned that the Draft would inadvertently or otherwise be deemed to give the CNMI's procedures a clean bill of health. However, since this is a descriptive rather than an analytical piece, clearly such a conclusion would not be warranted. To ensure that no such misinterpretation is possible, this limitation in scope ought to be explicitly stated up front.

The Department's review raises serious questions about the methodology used. Many comments included in the Draft are misleading and inaccurate and based on flawed assumptions. Its focus on explanations by the CNMI government, and the absence of any analysis given the concerns of the U.S. Congress and the Administration makes it appear one-sided. As such, the Draft could be interpreted as sanctioning CNMI policies and procedures, which would be in direct conflict with the unanimously expressed sentiment of the Senate when it passed S.1052 extending the Immigration and Nationality Act (INA) to the CNMI. The utility of the Draft could be enhanced if it was accompanied by an analysis and rigorous investigation by GAO.

METHODOLOGY

The Department has the following concerns regarding the methodology employed in the Draft:

- **It limits its focus to a description of the CNMI's procedures rather than providing more of an analysis in light of the ongoing concerns raised by the U.S. Congress and the Administration.**
- **It omits any verification of the data and information provided by the CNMI officials.**
- **It omits a section evaluating the effectiveness of procedures it describes.**

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The Draft contains an important frame of reference:

Concerns have been raised about the CNMI's ability to effectively implement its immigration laws and control the export and import of goods.

Although the operative words, "concerns" and "ability to effectively implement...and control," imply the need for evaluation of some kind, the Draft, by and large, limits itself to a mere recital of existing procedures of the government of the CNMI echoing the data and numerical estimates included in past reports prepared by the CNMI.

See comment 5.

The Draft specifically excludes any history of concerns raised by the U.S. Congress and the Administration. This is crucial background information which ought to be included in the Draft. Since 1984, three successive U.S. Administrations have raised concerns regarding the CNMI's immigration and trade policies. In 1994, Congress directed the Administration to work with the CNMI to respond to these concerns. On July 22, 1997, the Administration released its third annual report to Congress that found efforts to resolve these concerns have not succeeded. On October 8, 1997, the Administration proposed: (1) extending Federal immigration policy and minimum wage laws (as provided for in Section 503 of the Covenant), and (2) limiting garment shipments that circumvent the Federal quota and tariff system. A similar bill, limited to the control of immigration (S.1052), passed the Senate on February 7, 2000.

The Draft is virtually silent about the actual capacity of the CNMI to implement its immigration and custom laws or control its borders. Uncorroborated statements attributed to CNMI officials/sources are repeatedly presented without critical analysis or evaluation. Instead, they seem to stand as findings of fact. For example, the Draft states that CNMI's Immigration Division relies on employers to report aliens who remain in the CNMI beyond the end of their employment periods. There is no follow-on analysis of how this system is working and no empirical evidence given to support the contention that reliance on employer reporting is effective.

See comment 6.

Although the Draft lists several non-CNMI information sources and refers to meetings held with various Federal agencies, it omits commentary from these parties. In January, 2000, less than one day was spent with Federal officials in the CNMI. Additionally, the Draft excludes observations by INS officials on procedures to control the flow of aliens into and out of the CNMI, including the performance of LIIDS. There is no evidence of documentation gathered from the U.S. Customs Office on investigations conducted in the territory; from the U.S. Department of Justice relating to criminal activities; from the Centers for Disease Control and Prevention about communicable diseases among the alien worker population; or from the U.S. Department of Labor on labor abuses.

The Draft tacitly acknowledges that the CNMI does not have consulates or embassies in any of these countries and does not require visas for people entering the territory. It also brings up some significant issues related to the CNMI's capacity to pre-screen all entering aliens and the ability

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See comment 7.

of prospective workers to fraudulently alter the hand-carried results of criminal background checks.

In another instance, GAO observers report being told that CNMI's current Administration has given priority to enforcing labor and immigration laws and that this has led to greater control over labor and immigration and improved work conditions. However, various news accounts allege that enforcement efforts include warrantless searches, illegal forfeitures, and elements of prosecutorial misconduct. Congress would be well served if GAO examined the validity, or lack thereof, of these allegations. The Draft should also address whether the CNMI has met its commitments to improve workers' conditions, and the extent to which immigration and labor controls enacted in the territory are enforced.

THE COVENANT AND APPLICABILITY OF FEDERAL LAWS

See comment 8.

There are a number of misconceptions regarding the status and laws of the CNMI and its relationship to Federal law. Specifically, the Draft implies erroneously that the CNMI has unique status among the insular areas.

- **The Draft mistakenly implies that since the CNMI enjoys "self-governance in local affairs" this includes control over "its own immigration and customs policies and procedures."**
- **The Draft mis-characterizes five (5) exemptions of Federal law provided by the Covenant.**

See comment 9.

The Draft's opening sentence, "The Commonwealth of the Northern Mariana Islands (CNMI) is a U.S. territory with commonwealth status in the western Pacific," is incorrect. The U.S. Senate's Committee on Interior and Insular Affairs, in approving the CNMI Covenant, stated that the Commonwealth of the Northern Mariana Islands enjoyed territorial status similar to Guam.

See comment 10.

The Draft states that the Covenant agreement extends "self-governance in local affairs" and control over "its own immigration and customs policies and procedures" as if these are attributes of local self-government. In approving the Covenant in 1975, the Senate Committee on Interior and Insular Affairs offered the following rationale as the reason for not immediately extending the INA.

The reason this provision is included is to cope with the problems which unrestricted immigration may impose on small island communities....It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands.

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See comment 11.

The CNMI has precisely the same political status as other United States insular areas and, like these, lies outside U.S. customs territory. The Commonwealth benefits from the same exemption from customs duties that other territories enjoy, as granted by Congress in General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States and which may be modified by Congress at any time. The Covenant simply gives imports from the CNMI into U.S. customs territory, the same treatment as imports from other insular areas.

See comment 12.

The Draft lists five "total exemptions from federal law provided by the Covenant" as though these were part of an agreement intended to make the CNMI less subject to United States jurisdiction than other insular areas. Four of these are questionable.

- ***The CNMI is not within the customs territory of the United States.*** This restatement of the legal definition of U.S. customs territory, is not unique to the CNMI..
- ***Federal minimum wage provisions do not apply.*** The non-applicability of minimum wage provisions is not a "total exemption from federal law" but a temporary suspension until such time as the Congress decides to apply it.
- ***Federal immigration laws do not apply.*** Non-applicability, again, signifies a temporary suspension and is not a "total exemption" from Federal law.
- ***The Jones Act does not apply to the CNMI.*** The Jones Act also does not apply to the U.S. Virgin Islands or American Samoa and, under the Covenant, does not apply to the Northern Mariana Islands except as made applicable by Congress.

ILLEGAL ALIENS

- **The Draft deals only cursorily with the issue of the number of illegal aliens**

See comment 13.

The Draft makes little mention of the illegal alien population. It cites the CNMI Department of Labor and Immigration's (DOLI) estimate of approximately 5,000 illegal aliens prior to September 2, 1998, and that about 3,000 registered during an "amnesty" period. The accuracy of these figures is important. Other sources provided much higher estimates.

See comment 14.

The Draft recites DOLI's reliance on employers' reports of the number of overstaying aliens. Although employers have some incentive to report them, they have equally strong, if not stronger, incentives to not report them. For instance, the risk of DOLI sanctions may be outweighed by the opportunity to avoid paying alien workers their lawful wages, and thus decrease business expenses.

See comment 15.

GAO may be able to compile more accurate figures by: (1) requesting the actual number of self-reporting illegal aliens issued work permits and (2) interviewing community leaders within the

alien workers' population.

LABOR AND IMMIGRATION IDENTIFICATION AND DOCUMENTATION SYSTEM (LIIDS)

- **The Immigration and Naturalization Service should verify the effectiveness of LIIDS.**
- **The Draft fails to acknowledge that LIIDS, which was designed to provide the CNMI with immigration entry and exit control, is unequal to the task.**

The Draft describes LIIDS in terms of the way it ought to work and does not evaluate its current effectiveness. It fails to acknowledge the fact that, despite the spending of several million Federal dollars on consultants, hardware and software since 1995, the completion date once targeted for mid-1997 is still very slippery. The system, as it exists now, cannot be used reliably for labor and immigration status determinations or for entry and exit control purposes.

See comment 16.

LIIDS figures included in the Draft show the number of alien worker permits issued in a calendar year, but not the number of permit applications, permits cancelled, or the number of workers in the CNMI on any given date. Further, DOLI's number of 33,027 issued permits excludes workers employed under temporary work authorizations while their labor complaints are being investigated by various local and Federal agencies.

See comment 17.

The Draft fails to recognize that the major goal of LIIDS was to provide the CNMI with immigration entry and exit control. The Draft simply reports that DOLI officials manually compare arrival and departure forms for each month and presume the tourist is still in the territory if records cannot be located. LIIDS cannot be used to generate reports on alien workers who have overstayed their authorized employment periods. It is incapable of detecting false documents used for entry into the CNMI by aliens.

PRE-SCREENING OF ALIEN WORKERS

The Draft states from interviews with CNMI officials that a liaison office in Manila was established to work with the Philippines Overseas Employment Agency (POEA). However, the Philippine Consulate reports that this office was closed in 1998. The Department believes this illustrates the pitfalls of accepting information without verification.

Further, the Draft observed from interviews with CNMI officials that the CNMI works closely with the POEA. However, in September 1999, the Philippine government reported that the current CNMI Administration failed to enter into a new Memorandum of Understanding (MOU) and does not honor the previous MOU. These MOU's are designed to insure that only Filipinos properly cleared by the POEA are allowed to enter the CNMI for employment.

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See comment 18.

Pre-screening is also non-existent in other countries contributing workers to the CNMI, such as the People's Republic of China.

See comment 2.

CNMI ACTIONS TO IMPROVE THE IMMIGRATION SYSTEM

- **The Draft omits critical background information of which policy makers ought to be made aware. Specifically, it is silent on the current attempt to repeal the legislative reforms it lists.**
- **The Draft fails to analyze the data it collected.**
- **The Draft does not include objective evaluation of the effectiveness of local immigration enforcement.**

The Draft states that the CNMI has "increased its enforcement activities and made legislative changes" to address immigration-related problems. The Draft does not include objective evaluation of the purported increase in enforcement activities, nor does it contain descriptions or evaluations of legislative changes. The Department would, for instance, recommend an in-depth discussion of the prevalence and trends in the crime, deportation or prosecution rates. Such a discussion is important to any determination of how well the CNMI procedures are working.

See comments 19 and 20.

The Department believes that any evaluation of the effectiveness of CNMI's immigration system would also examine its practice of passing and effectively nullifying reform legislation. For example, in March 1998 the CNMI legislature enacted a moratorium on the hiring of alien workers (P.L.11-6). Since its enactment, the Governor has granted over 2,384 exemptions for everything from car cleaners to surgeons.

See comment 21.

In November, 1998, P.L. 11-33 enacted ostensibly to provide for the hiring of any self-reporting illegal alien by any employer, in fact allows employers to increase their alien worker ceiling under the earlier moratorium.

See comment 22.

In March 1999, P.L.11-76 was passed. This law gave the garment manufacturing industry further relief from the moratorium by granting an unique alien worker cap to each factory. It also authorized a one-year period to bring alien workers to the CNMI until each factory reached its quota. The absolute cap established under P.L. 11-76 for alien garment workers was 15,727: an increase of more than 2,000 alien garment workers. However, a review of the numbers provided in the Draft shows that alien garment workers in 1999 totaled 16,533 or over 800 more than the absolute cap.

See comment 2.

In addition, the CNMI House of Representatives recently passed H.B. 12-039 which removes the general moratorium on alien workers set by P.L.11-6. The bill also makes changes in the

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application of P.L. 11-76, the absolute cap on garment workers, repeals P.L. 11-69, imposing a three-year limit on the stay of any alien worker, and repeals P.L. 11-123 authorizing CNMI Customs to deny a certificate of origin on exports. The bill is now before the CNMI Senate.

Another aspect the Draft should examine is the prevalence of selling work permits and associated abuses. Alien workers have also claimed that they were defrauded by recruiters to whom they report they paid between \$700 and \$1,500 each. The Department believes that the Draft is incomplete without addressing these issues.

See comment 23.

The Draft does not include information on the enforcement of regulations requiring cash bonding for security guard permits. Small firms are forced to put up out-of-pocket money to guarantee three months salary (\$1,586), airfare to the worker's country of origin, and a bond for medical coverage that usually costs about \$300. Large companies are not required to make such cash commitments. The Draft should examine the basis for this distinction, particularly since the majority of prior labor cases against security guard companies involved very large firms.

No mention is made of the fact that this CNMI Administration has successfully executed only one MOU. The territory and the NLRB signed a MOU in October of 1999. DOLI officials report that negotiations ceased between the INS and the CNMI in early 2000, and the U.S. Department of Labor is operating under a 1997 MOU. To date, the Equal Employment Opportunity Commission and DOLI have not held discussions. The Department of the Interior's Ombudsman's Office and DOLI agreed to discuss a MOU in March 2000.

The Draft should also examine the extent of due process violations which could seriously affect enforcement of CNMI labor laws in light of U.S. District Court for the Northern Mariana Islands Federal Judge Alex R. Munson's ruling on February 2, 2000.

CUSTOMS

- **The Draft fails to analyze the effectiveness of the customs system described.**

See comment 24.

The Draft includes descriptions of customs procedures as reported by CNMI officials. There is however, no examination of the prevalence of fraud or malfeasance brought against immigration and customs agents, or of any procedures instituted to prevent recurrence. Notably, observation by the GAO team of a garment factory employee using an official CNMI customs stamp to certify export documents, apparently did not arouse curiosity about previous incidents. (U.S. Customs officials had noticed the same thing in 1998.) Instead, the Draft accepts the effectiveness of safeguards that were put into place once they were informed "that customs staff were rotated to prevent familiarity with customers."

See comment 25.

The only discussion in the Draft of the important issue of transshipment is as follows: "An Executive Director within U.S. Customs Office of Investigations told us that transshipments were unlikely due to (1) the relatively inexpensive labor available in CNMI, (2) the authorization to

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put "Made in USA" labels on garments manufactured in CNMI, and (3) the fact that no quotas or duties are placed on CNMI-Manufactured garments." This statement is not reassuring because:

- Although labor in the CNMI is inexpensive relative to the U.S., it is much more relevant to compare it with labor costs in Asian supplier countries. The relatively high costs of CNMI labor, compared to Chinese labor, would appear to serve as an incentive to transship Chinese goods through the CNMI.
- The authorization to put "Made in USA" labels on garments manufactured in the CNMI similarly would provide an incentive to transship goods and place labels on them in the territory.
- The fact that no quotas or duties are placed on CNMI-manufactured garments again appears to be the very reason why fraudulent transshipment should be considered a possibility.

None of these factors show that finished goods are actually being transshipped fraudulently through the CNMI, but the dismissal of this possibility is unjustified.

ALIENS' INVOLVEMENT IN CRIMINAL ACTIVITIES

The Draft observes that arrests of aliens occur at about the same proportion as arrests of the general population. This is less reassuring than it seems on the surface since most alien workers live in barracks and are generally under the supervision of their employers. The figure is not verified nor is there any mention made of organized crime. The latter is the principal concern usually raised in connection with CNMI immigration procedures and Federal INS concerns regarding the smuggling of illegal aliens into Guam.

ALIENS USE OF PUBLIC HEALTH

- **The Draft does not analyze the basis for the CNMI's declaration of a "health emergency" in February 1998.**
- **The Draft ignores the existence of underground medical clinics as a reason for the low percentage of patient visits by aliens.**
- **The Draft is silent on the non-reimbursed costs associated with the health services provided to aliens.**
- **The Draft fails to note that infants born to alien mothers are U.S. citizens and, thus, eligible for public assistance including Medicaid benefits.**

The Non-Resident Workers Act passed in 1986 requires alien workers to be screened for

See comment 26.

See comment 27.

See comment 28.

See comment 3.

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See comment 29.

communicable diseases by a licensed medical practitioner and mandates the issuance of "health certificates" by the Department of Public Health (Health Department). By 1997, the Health Department estimated that only 10,000 to 15,000 non-resident workers were being screened annually, or only about 1/4 of the estimated 42,000 alien worker population. The Draft does not analyze why the CNMI declared a "health emergency" in February 1998, which necessitated the immediate re-screening of thousands of workers originating from countries with high endemic rates of tuberculosis and sexually transmitted diseases.

See comment 28.

GAO observers state, but do not verify, that aliens comprised a low percentage of patient visits in FY 1999 as compared to U.S. citizens, and accounted for only 18% of all health care expenditures. The proportion translates to approximately \$7 million in costs, an amount presumed by the Draft to be recouped from the employers of non-resident workers. In addition to not verifying whether that is the case, it ignores the non-reimbursed costs associated with the health screening of aliens referred to the Health Department.

See comment 27.

There is no follow up of the concern expressed by the Health Department about the existence of underground "medical clinics" that may be frequented by non-resident workers, undocumented aliens, and overstayers seeking unauthorized medical treatment. The Draft infers that the relative young age and lack of chronic diseases among alien workers are reasons why these individuals account for a comparatively low percentage of patient visits. However, the presence of underground medical clinics may be just as important.

See comment 30.

The Draft states that non-resident workers are ineligible for CNMI-paid medical referrals for off-island tertiary care. It makes no mention, however, of the number of infants and children of aliens who have been born in the CNMI. (During the short period between February 25 to May 25, 1998, seventy-eight non-resident alien pregnant women were referred to the Health Department). If the offspring of these women were subsequently born in the CNMI, they are U.S. citizens and, therefore, eligible for public assistance.

ADDITIONAL POINTS

See comment 31.

One of the more apparent points missed by the Draft is that despite legislative reforms passed to provide greater control over labor and immigration, there was an increase in the number of permits issued between 1998 and 1999, from 26,379 to 33,027.

Without verified data and objective analysis, more questions are generated by the Draft than are answered by it. The Department also notes:

See comment 32.

- LIIDS still relies on employers to self-report overstaying alien workers.
- Immigration officials still manually determine whether tourists have overstayed.

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See comment 13.

See comment 33.

See comment 34.

- There is no reliable estimate of the number of illegal aliens presently residing within the CNMI.
- DOLI still relies on self-reporting and not a pre-screening process to check aliens' criminal and health backgrounds prior to entry.
- There is no effective cooperation between DOLI and countries of origin, the Philippines included.

The following are GAO's comments on the Department of the Interior's letter.

GAO Comments

1. According to information provided to us by the CNMI Government on May 4, 2000, the Manila office was not closed, just scaled down in size. However, we have amended the report to delete the mention of the Manila office.

2. Subsequent to when we originally drafted of this report, the CNMI House of Representatives passed House Bill (H.B.) 12-39. We have amended the report to add a section on "Recent Legislative Actions" to acknowledge the passage by the House of this legislation that, among other things, seeks to repeal some of the reform acts passed by the CNMI's 11th legislature (see p.19).

3. We modified the report to recognize that dependents of alien workers who are born in the CNMI are citizens who are eligible for the Medicaid program (see p. 32).

4. Because our report focussed mainly on CNMI's immigration and customs issues, we provided the CNMI, INS and U.S. Customs an opportunity to comment on the draft report. Customs agreed with the facts and had no further comments on the report. INS' comments are discussed in the report and are included in appendix III. We did not solicit comments from other federal agencies. For example, we did not seek comments from the Department of Labor because labor issues were outside the scope of our review. We did, however, offer to discuss the job with Department of Labor officials, but they declined.

5. We have amended the report to more explicitly state that since 1984, Members of Congress and successive administrations have expressed concerns regarding the CNMI's ability to effectively implement its immigration laws and control the export and import of goods (see p. 1).

6. Much of the information we gathered from federal officials in the CNMI was general background information regarding the roles of their respective agencies in relation to the CNMI. In addition, none of the officials we interviewed indicated that they needed more time with us to cover the issues related to our work.

INS officials provided information on a number of issues, including Labor and Immigration Identification and Documentation System (LIIDS). Unfortunately, the data INS provided on LIIDS were not current.

We report on U.S. Customs Service investigations conducted in the CNMI in the section entitled “Joint U.S. and CNMI Customs Investigations” (see p. 23).

We report that the Department of Justice provided us with data that showed that there have been no prosecutions of organized crime cases involving the CNMI during the period 1992-1999 (see p. 38).

The Centers for Disease Control and Prevention provided data on health trends and disease rates in the CNMI, but we received more comprehensive and current data from the CNMI.

Lastly, as stated earlier, the Department of Labor informed us that it was not necessary to meet with us to discuss this report.

7. A review of the allegations Interior identified is beyond the scope of our audit. We did note, however, that the Northern Mariana Islands District Court ruled that surprise inspections to work sites were unconstitutional (see fn. 30, p. 18). Finally, as stated earlier, an examination of worker conditions and the extent to which immigration controls are enforced was beyond the scope of our review.

8. The report does not state that the CNMI has a unique status. We simply describe the current status and laws of the CNMI.

9. Pursuant to Public Law 94-241 (in which Congress approved the Covenant), the Northern Mariana Islands became a “self-governing commonwealth” to be known as the Commonwealth of the Northern Mariana Islands.

10. The report states that the Covenant allows the CNMI to implement and enforce its own immigration and customs policies and procedures. This is an accurate statement. We did not state or intend to imply that this is necessarily an attribute of self-government.

11. As indicated earlier, the scope of our review was to report on the status and laws of the CNMI. Our report did not address the other United States insular areas. We agree and stated in the report that the CNMI lies outside U.S. Customs territory. Further, Public Law 94-241 provides that the Northern Mariana Islands will not be included within the Customs territory of the United States.

12. Our report did not address the status and laws of the other insular areas. With regard to the applicability of federal laws in the CNMI, we accurately describe certain current exceptions from federal law that are provided by the Covenant, as approved by Congress.

13. The text has been amended to state that there are no firm data on the number of illegal aliens in the CNMI and to include data on the estimates from the CNMI and INS (see p. 6).

14. The report has been modified to recognize that although there are incentives for employers to report overstaying aliens, there may also be incentives for them not to report (see fn. 27, p. 14).

15. The Department of the Interior's suggested approaches for determining the number of illegal aliens in the CNMI would not necessarily produce more reliable data.

16. We have amended the report to state explicitly that DOLI's number of 33,027 issued permits excludes workers employed under temporary work authorizations while their labor complaints are being investigated by various local and federal agencies (see p. 13).

17. We reported that the CNMI recognized the limitation of LIIDS (see p. 14). We also state that the CNMI has been seeking to develop a complete immigration tracking system that would include automated tracking of not only alien workers, but arrival and departure information on all visitors (see p. 15).

18. Prescreening is not nonexistent in countries other than the Philippines. All prospective alien workers, regardless of their home countries, are required to go through the same prescreening procedures for detecting disqualifying communicable diseases and criminal histories (see the section entitled "Prescreening of Alien Workers" that begins on p. 10).

19. We do not attempt to address the effectiveness of the reform legislation, but rather provide the status of the legislative reforms passed by the CNMI legislature in recent years that pertain to alien workers.

20. CNMI P.L. 11-6 grants the CNMI Governor the authority to grant exemptions from the moratorium for certain purposes. According to CNMI Government officials, exemptions have been granted, but we did not confirm the number of exemptions granted nor the reasons for those

exemptions. We have included the number of exemptions the Department of the Interior reported in the report (see fn. 31, p.19).

21. CNMI P.L. 11-33 did allow for limited immunity for illegal aliens who voluntarily came forward in a 6-month period following the effective date of the act. Aliens who were granted this limited immunity could apply for a temporary work permit, and the Moratorium Law (P.L. 11-6) did not prohibit employers from hiring them. The report now includes this information (see fn. 32, p. 19).

22. CNMI P.L. 11-76 established an absolute cap of 15,727 alien workers in the garment industry. In table 2, we provided information on the number of permit cards issued to alien workers by employment sector (see p. 13). For 1999, the number indicated for the garment industry is 16,533. However, as we indicate in footnote 22 of the report, the numbers in that column do not reflect an actual head count of alien workers because some workers are issued new permits within the same year for such things as having a consensual transfer from one employer to another, replacing a lost permit card, etc. According to CNMI officials, the actual number of workers who were issued permits in 1999 for the garment industry was 15,641, which is below the cap. We have included this information in the report (see p. 13).

23. We have amended the report to add this information (see fn. 16, p. 10). However, an evaluation of the distinction between large and small firms was beyond the scope of this review.

24. We make no statement regarding the effectiveness of the safeguards that the CNMI Customs Division has in place.

25. We disagree that the report dismisses the possibility of transshipments. We report that officials from the U.S. Customs' Office of Investigations did not report problems of fraud, diversions, or transshipments of goods involving the CNMI. We state that since 1996, U.S. Customs officials have conducted 16 separate investigations in the CNMI, and none of these investigations have uncovered evidence of transshipments or diversions of U.S.-protected goods (see p. 24).

26. The regulations for the Alien Health Screening Program were adopted on an emergency basis, but they were implemented as permanent regulations and are in effect today.

27. The report has been amended to recognize that aliens may be receiving needed health care at facilities other than those operated by the Department of Public Health—such as Chinese clinics (see fn. 42, p. 28).

28. The only data we had on alien health care was the cost of that health care that was borne by the CNMI government. We did not have data on the cost of health care, if any, incurred by the alien workers or their employers.

29. The report has been amended to note that implementation of the Alien Health Screening Program was delayed from 1996 to 1998, mainly due to concerns by the prior CNMI administration regarding the financial burden being placed on the business community to pay for the program (see fn. 44 on p. 28).

30. We do not know whether the 78 nonresident alien pregnant women actually gave birth in the CNMI. Therefore, we do not know whether those children would be eligible for Medicaid benefits, or whether they actually received such benefits. Further, the Department of Interior provided no context for the figures (i.e., whether these figures are representative of the average number of such births during a similar time period).

31. We reported that the number of permits increased from 1998 to 1999. However, the number of permits decreased from 1997 to 1999, as shown in table 2 (see p. 13).

32. If the CNMI implements the BMS system, data on alien workers and tourists will be available.

33. Except for South Korea and Hong Kong, the Department of the Interior is correct that the CNMI relies on aliens to provide the results of their criminal history background checks. With respect to health screening, aliens bring with them the results of a health screen from their home countries. However, the CNMI conducts further health screens on these workers within 10 days of their arrival in the CNMI to ensure detection of TB, HIV, and syphilis.

34. We did not evaluate the effectiveness of the cooperation between DOLI and the countries of origin. Each worker is dependent on his/her home country for assistance in processing the required DOLI paperwork and conducting the health and criminal history checks in order to gain entry into the CNMI.

Comments From the Immigration and Naturalization Service



U.S. Department of Justice
Immigration and Naturalization Service

HQCOU 90/15-C

Office of the General Counsel

425 I Street NW
Washington, DC 20536

MAY 1 2000

Ms. Laurie Ekstrand
Director
Administration of Justice Issues
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Ekstrand:

Thank you for your April 14, 2000 transmission to the Attorney General of the General Accounting Office (GAO) draft report GAO/GGD-00-97, entitled "Northern Mariana Islands: Procedures for Processing Aliens and Merchandise." The Immigration and Naturalization Service (INS) offers the following comments.

It is the position of the Administration that the Immigration and Nationality Act (INA) should be extended to the Commonwealth of the Northern Mariana Islands (CNMI), with appropriate transition provisions. This position is based upon policy reasons that have been thoroughly stated by the INS and other agencies in Congressional testimony, reports, and other documents. We understand that the GAO has not been asked to address the policy question of which immigration system should apply to the CNMI, but rather, what the CNMI's procedures currently are; in other words, that the report reviews means, but not ends. We are concerned, however, that the report does not contain a clear disclaimer that it does not address immigration policy issues. A specific statement to that effect early in the report would help dispel any mistaken impression that the report's conclusions extend further than, in fact, they do.

Similarly, more specific clarification of the limited scope of the GAO review of the CNMI's procedures would be helpful. On page 2, the report states that "[c]oncerns have been raised about the CNMI's ability to effectively implement its immigration laws and control the export and import of goods", and that accordingly the GAO has been asked "to review CNMI procedures for controlling the flow of aliens and goods into and out of CNMI." The juxtaposition of these phrases, and a reasonable reading of the word "review," creates the strong impression that the GAO report responds to the concerns that have been raised by assessing the effectiveness of the CNMI's implementation of its immigration laws. It is our understanding from oral discussions with the GAO that the GAO report does not do this. The report should

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Comments From the Immigration and Naturalization Service

Ms. Laurie Ekstrand
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state more clearly the limited scope of the review, as the current draft may create the impression that the GAO has reviewed the procedures and found them effective.

In addition, we note that there are a number of immigration procedures that the INS considers to be fundamentally important with respect to carrying out its responsibilities under the INA, but that the GAO report does not review with respect to the CNMI. These include asylum and refugee policy and procedures, detention authority and capability, and the administrative process for obtaining and executing a removal order (including review procedures and due process protections available to the alien).

At page 10, the report cites INS as a source of information on the CNMI's procedures to control the flow of aliens into and out of the CNMI. The INS has, as always, done its best to be responsive to any requests for information coming from the GAO, and our comments in this letter are made with the same constructive intention. The INS does not certify the accuracy or the completeness of the report, however, and the general mention of INS as an information source should not be interpreted as INS endorsement or approval of any specific statement contained within it.

Thank you for your consideration of these comments.

Sincerely,



Bo Cooper
General Counsel

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