

Table of Contents:

Report:

I. Introduction and Executive Summary	1
II. The CNMI's Continued Dependence on Indentured Alien Workers	3
III. Federal Law Enforcement Efforts	11
IV. The CNMI's Recent Efforts	17
V. Conclusions and Recommendations	23

Appendices:

Appendix I

Findings/Issues

Appendix II

U.S. Department of Labor

U.S. Department of Justice

National Labor Relations Board

U.S. Customs Service

U.S. Secret Service

Bureau of Alcohol, Tobacco, and Firearms

U.S. Diplomatic Security Service

Department of the Interior/Office of the Inspector General

Appendix III

Tax Payments by the Garment Industry to the CNMI

Appendix IV

Initiative Funding

Appendix V

Health Findings

I. Introduction and Executive Summary:

This is the fourth annual report that the Administration is providing to Congress regarding the status of the Federal-CNMI Initiative on Labor, Immigration and Law Enforcement, as established by Public Law 103-332 for fiscal year 1995 appropriations.¹ Since the last report, several developments have occurred that significantly impact the situation in the Commonwealth of the Northern Mariana Islands (CNMI).

First, as discussed in Section II below, the Administration continues to be concerned about the CNMI's heavy and unhealthy dependence upon an indentured² alien worker program and on trade loopholes to expand its economy. As a result of this reliance, the labor, immigration and law enforcement problems in the CNMI continue. Of continuing concern is the emergence of serious secondary problems, such as worker exploitation and ineffective border control, which are symptomatic of the CNMI's labor and immigration policies.

Section III outlines continuing Federal efforts to address these problems, culminating recently in the U.S. Senate's consideration of President Clinton's proposal to apply Federal immigration and minimum wage laws to the CNMI. Although the Administration has devoted significant resources and personnel to Federal law enforcement efforts in the CNMI, the Administration believes that enhanced Federal law enforcement activities are insufficient by themselves to address these growing problems. Limitations on Federal jurisdiction in the CNMI severely hamper Federal law enforcement efforts in the CNMI.

In another major development, Section IV discusses the accession of a new Governor in the CNMI in January 1998 and efforts by his administration to address these problems locally. While the Administration acknowledges the good intentions underlying these local initiatives, past experience suggests that these efforts too will not be sufficient, nor will they likely be sustained. More importantly, these efforts are not directed at reforming the fundamental policies and institutions that originally gave rise to these pervasive problems, but instead appear directed toward addressing secondary symptoms.

¹Under the Initiative, Congress directed the Administration to establish a program to respond to the widening range of labor, immigration and law enforcement problems in the CNMI. Congress appropriated \$7 million in fiscal years 1995 and 1996, \$3 million in fiscal year 1997, and \$2 million in fiscal year 1998. Since 1994, Federal agencies have significantly increased their presence in the CNMI through the actions of the Departments of Justice, Labor, Treasury, Interior, the National Labor Relations Board, and the Equal Employment Opportunity Commission.

²An indenture is a contract. Alien workers in the CNMI are indentured because they are in the CNMI solely by virtue of their employment contract with a specific and sole employer or "master," who is in control of the duration of the stay of the indentured alien worker in the CNMI. If the worker displeases the employer/master, the contract is terminated and the employee must leave the CNMI.

In light of these developments, Section V concludes that section 503 of the Covenant should be implemented by Congress, as originally intended by the Covenant, by applying Federal immigration and minimum wage policies to the CNMI. Congress should also close the trade loopholes being exploited by Asian garment manufacturers. Congressional action is necessary not only to provide long-term solutions and stability to the current situation, but also to ensure that fundamental American values and interests are upheld.

II. The CNMI's Continued Dependence On Indentured Alien Workers and Trade Loopholes Has Exacerbated the Current Problems and Led to the Emergence of Secondary Symptoms

A. Immigration and Minimum Wage Are Temporary Privileges Under the Covenant

The United States administered the Northern Marianas Islands on behalf of the United Nations as a district of the Trust Territory of the Pacific Islands from 1947 to 1986, at which time the islands came under United States sovereignty pursuant to an agreement (Covenant) approved by the people of the Northern Marianas in a United Nations-observed plebiscite and by the U.S. Congress in Public Law 94-241. The Covenant provided for the establishment of the local Commonwealth government pursuant to a locally-adopted Constitution in political union with the United States. The Covenant did not immediately extend Federal immigration and minimum wage laws to the Commonwealth, but provided that Congress could apply federal immigration and minimum wage laws to the Northern Mariana Islands upon termination of the Trusteeship Agreement, which occurred in 1986. The provision authorizing these temporary privileges reads as follows:

"Section 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

- (a) . . . the immigration and naturalization laws of the United States . . . ;
- (c) the minimum wage provisions of Section 6 of [the Fair Labor Standards Act]."³ (Emphasis added)

According to Ambassador F. Haydn Williams, the lead U.S. representative during the Covenant negotiations, representatives from the Northern Marianas had originally attempted to make these privileges permanent by subjecting them to the requirement of mutual consent. However, these arguments were not accepted by the United States, which, instead, negotiated the final formulation in section 503 of the Covenant.⁴

³Section 503 of Public Law 94-241

⁴ Letter dated March 19, 1998 from Ambassador F. Haydn Williams to Edward Cohen, the President's Special Representative to the CNMI 902 Consultations: "Local control over immigration and wages were not considered to be permanent measures. Efforts were made to make them so by the NMI Political Status Commission, but this effort was rejected by the United States. The United States refused to include section 503 in the list of the provisions in the covenant that could only be changed by mutual consent. As finally agreed, the Congress would be free to extend United States immigration laws to the CNMI at some future date."

B. Local Control Over Immigration and Minimum Wage Has Led to an Unhealthy, Pervasive Reliance Upon an Indentured Alien Work Force

Since 1986, the CNMI has used the temporary immigration and wage privileges granted under the Covenant, and trade privileges granted under General Note 3 (a) (iv) of the Harmonized Tariff Schedule, in ways that are inconsistent with the purposes of these provisions. While there has been extraordinary economic growth in the CNMI, this growth is both unsustainable and unhealthy. The Administration believes that it is urgent that Congress fully implement section 503 by applying Federal immigration and minimum wage laws to the CNMI as anticipated. The following sections illustrate these points in more detail.

The Covenant did not immediately apply Federal immigration law (INA) because of the desire expressed by Northern Mariana Islands' Covenant negotiators to prevent possible mass immigration of Asians who would want to be on United States soil but adjacent to Asia. There were also separate efforts at the time the Covenant was approved to include provisions for small island communities in the Immigration and Naturalization Act. Reflective of these separate efforts is the following passage from the Senate report on the Covenant:

"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."⁵

Ironically, instead of keeping people out, the CNMI has used the combination of immigration, minimum wage control, and trade privileges for just the opposite purpose — the massive importation of low-paid indentured alien workers. These aliens now constitute far more than half the population and have significant economic and social impacts on the U.S. citizen residents of the CNMI.

Through its policies, the CNMI has experienced a self-imposed explosive population growth of about 250 percent in a decade and a half from 1980 to 1995. The total population rose from about 17,000 in 1980 to nearly 60,000 in 1995. In addition, it is estimated that there is one unauthorized alien residing in the CNMI for every four U.S. citizens. A startling 91% of the private-sector jobs are held by indentured alien workers and more are arriving daily even though unemployment and poverty rates among locally-born U.S. citizens are very high, 14.2% and 35%.

⁵Senate Report 94-433, page 78

respectively.⁶ Included as indentured alien workers are unskilled, skilled, and professional workers. Because these alien workers are willing to work for as little as \$3.05 an hour, few entry-level opportunities exist for U.S. citizens in the private sector. With an unrestricted labor supply and a virtual wage ceiling, normal economic pressure for wages and working conditions to improve are absent.

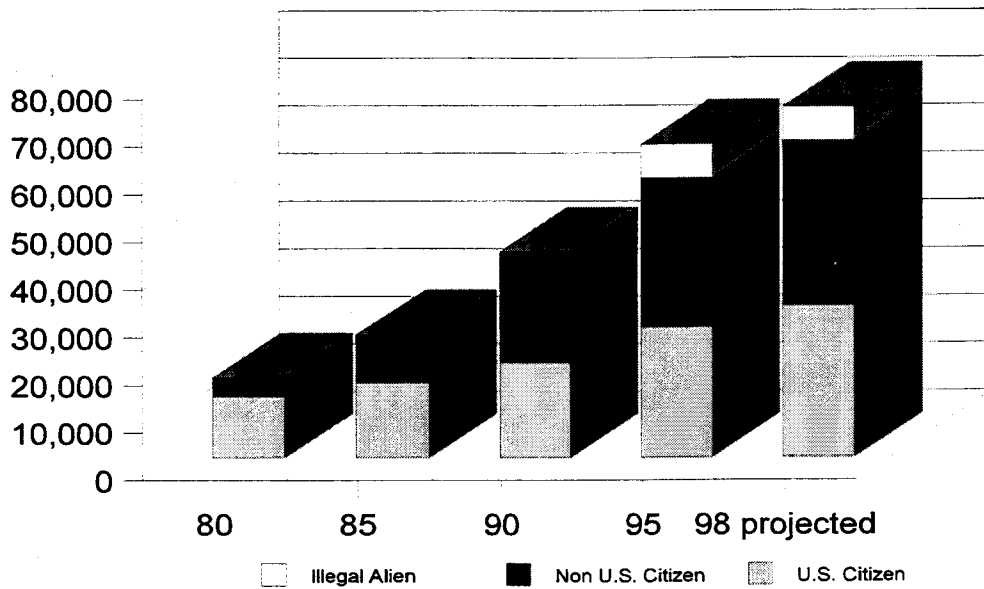
In its 1997 report regarding the CNMI, the United States Commission on Immigration Reform stated, "As a result of the CNMI's immigration policy, the alien population of the CNMI grew rapidly in the years since the Covenant went into force. In 1984, there were approximately 4,000 nonresident contract workers, while in 1986, when the Covenant became fully effective, this number had risen to approximately 10,000. Over the next four years, the alien population more than doubled, to slightly over 23,000. By the 1995 census, the number of aliens in the CNMI had risen above the number of U.S. citizens. The total population of the CNMI in 1995 was 58,846. That year, there were 27,478 U.S. citizens and 31,368 non-U.S. citizens."

The public sector employs nearly 56% of locally-born U.S. citizen workers at a median income nearly four times the median income found in the private sector. According to the 1995 census data, in the 5,337 households headed by U.S. citizens, there are 2,089 aliens employed as maids or other domestic workers. Thus, despite the high local unemployment and poverty rates, there is one foreign domestic worker for every 2.6 local households. This reflects a domestic service situation found nowhere else under the United States flag.

This two-tier economy, in which low-wage, indentured alien workers dominate the private sector and local U.S. citizens dominate the higher wage public sector, is antithetical to the American tradition of employing U.S. workers in productive private sector jobs, promoting growth of a middle class, and fostering participation in the democratic processes of the community. The indentured alien workers in the CNMI, who make up 91% of the private workforce, contribute substantially to the CNMI's economic growth but do not have a voice in the CNMI's political community nor possess any prospect of gaining the rights and protections of U.S. permanent resident status or U.S. citizenship. This upside-down system is inconsistent with U.S. principles. It is also incompatible with the normal U.S. immigration policy that temporary non-professional alien workers not be imported for permanent jobs.

⁶In the past, CNMI officials criticized the 1995 CNMI Census unemployment rate of 14.2 percent as based on inaccurate answers given by respondents to CNMI Census officials. It must be made clear that the CNMI Census officials and the United States Census officials use the same methodology in determining unemployment. To the extent that inaccurate answers are given, they would be common to both CNMI unemployment statistics and unemployment statistics in other United States jurisdictions. Thus, the use of 14.2 percent figure should be consistent with contrasting 5.6 percent unemployment rate for the United States as a whole and the 6.6 percent unemployment rate found in Guam, the southern Mariana island.

Population: U.S. Citizen and Non-Citizen
1980-1998



C. The CNMI Garment Industry Has Abused Current Trade Privileges to the Detriment of U.S. Workers, U.S. Companies and U.S. Taxpayers

All U.S. territories outside the U.S. customs territory, such as the CNMI, are currently free from quotas on their products shipped to the mainland United States. Like other such territories, the CNMI also enjoys a waiver from U.S. import duties pursuant to General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States for qualifying products made in the islands.⁷ The intent of this program is to promote local development and to stimulate local employment among U.S. citizens residing in the islands.

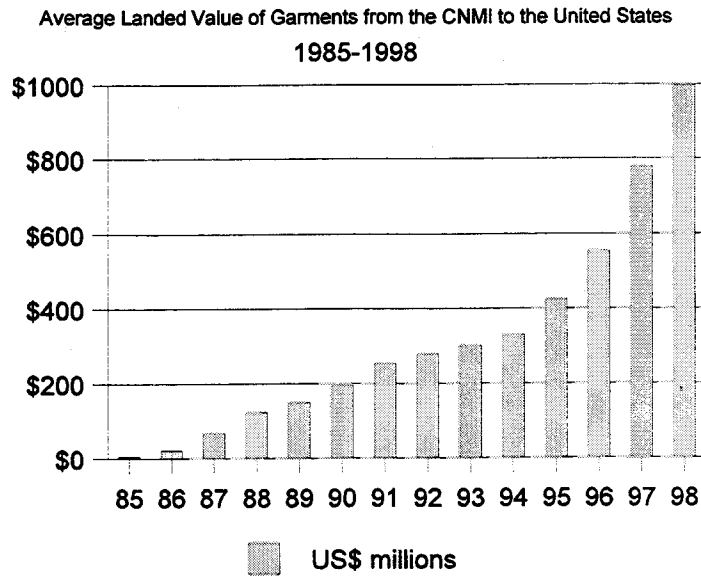
These current quota and tariff privileges, when combined with local control of immigration and minimum wage, have created a trade loophole that has allowed the explosive growth in the transplanted Asian garment industry in the CNMI. It has created few jobs for U.S. citizens in the islands, adversely affected U.S. industry and U.S. jobs, and cost U.S. taxpayer hundreds of millions of dollars in lost tariff revenues.

Shipments to the United States of garments assembled in the CNMI have almost tripled since 1994, growing by an astonishing rate of 43 to 45 percent a year for several years. For the twelve month period ending in September 1998, the level of garment shipment stands at over \$1 billion.⁸

⁷ *United States International Trade Commission USITC Publication #3066*

⁸ Source: U.S. Department of Commerce

Ownership of most garment plants in the CNMI is tied to interests in foreign countries in Asia that would otherwise be subject to U.S. tariffs and quotas. These interests are able to use their plants in the CNMI to exploit what the Associated Press has called "a lush little loophole"⁹ to subvert the intent of the trade privileges extended to the CNMI under the Covenant and to circumvent the United States textile agreements with Asian nations. The garment industry is now a dominant political force in the islands, as illustrated by the industry's role in the repeal of the local wage reform law and other restraints on garment industry growth.



There are now 31 garment manufacturing plants in the CNMI employing approximately 15,000 alien workers, who sew exclusively foreign fabric. The garment industry operating in the CNMI is largely an outpost of foreign industry. The plants are in most cases Asian-owned, employ mainly Asian contract workers, and use Asian fabric imported duty and quota free into the CNMI. The garments produced can be legally, but misleadingly, labeled as "Made in the USA." CNMI production is concentrated in several sensitive apparel product categories where U.S. producers' share of the U.S. market has fallen to a minority position. While it technically remains within its quota, China is able to effectively exceed its quota levels in these sensitive apparel categories by using the CNMI as an apparel manufacturing base, thereby legally circumventing its quotas. For these sensitive categories, combined imports from China and the CNMI exceeded 250 percent of China's quota in 1997.

In addition to problems associated with the transplanted foreign nature of the CNMI's garment industry, its anomalous use of the "Made in the USA" label, and the manipulation of the CNMI by foreign-based companies to circumvent U.S. quotas, there are also adverse impacts on U.S. jobs and the U.S. Treasury. Normally, if garments are produced in foreign nations, then the United States gets tariff revenue. If garments are produced in Mexico and U.S. fabric is used, the North American Free Trade Agreement (NAFTA) provides favorable treatment; thus, creating domestic textile jobs and profits. If garments are produced in the United States, then jobs and profits remain in the United States. Garments shipped from the CNMI use no U.S. fabric and produce no tariff revenue.

⁹"Saipan's boom is bruising lives," *Baltimore Sun*, January 5, 1998.