STATEMENT OF ALEXANDER A. SABLAN,
VICE-PRESIDENT, SAIPAN CHAMBER OF COMMERCE,
BEFORE THE COMMITTEE ON NATURAL RESOURCES
SUB-COMMITTEE ON INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES,
THE UNITED STATES CONGRESS
August 15, 2007

Hafa Adai, Madam Chairwoman and Members of the Committee. I am Alexander Sablan, Vice-President of the Saipan Chamber of Commerce. I thank the committee for the privilege to be submitting testimony representing the Chamber's 167 members and am honored to provide our testimony before this Committee concerning the potential extension of federal immigration law to the Commonwealth of the Northern Mariana Islands.

INTRODUCTION

Our President Juan T. Guerrero of the Saipan Chamber of Commerce provided testimony on July 19, 2007 on similar legislation (S.B. 1634) before the Senate Committee on Energy and Natural Resources with respect to its labor and immigration provisions that are virtually identical to H.R. 3079. We recognize the distinct addition of a U.S. Delegate Representative and at this time we thank Madam Chairwoman Christensen and Representative Nick Rahall for supporting this particular provision in this legislation. I will submit that the Chamber's position has always been to support the

effort to secure a U.S. Congress Delegate Seat we hope that passage of amended good legislation in H.R. 3079 the CNMI will finally achieve the representation in Washington D.C that the U.S. Citizen people of the CNMI so richly deserve. Madam Chairwoman and committee members we have extensively discussed the concerns of the Commonwealth business community with regard to the application of federal immigration law to the islands, and on the onset we appeal for an opportunity for the Commonwealth to work together with the federal government to address federal concerns in a manner that recognizes local realities. Both Governor Benigno R. Fitital and Lieutenant Governor Timothy P. Villagomez on two separate occasions and testimonies before the U.S. Senate and now before your committee have requested for a careful and independent study of the CNMI by the Government Accountability Office. Our Resident Representative to the United States Pedro A. Tenorio also asked this Committee that a joint congressional, administrative, and CNMI study group be formed to enable careful study, deliberation, and consultation prior to the enactment of federal legislation affecting the Commonwealth's immigration policies.

DISCUSSION

There has been much rhetoric concerning the perceived position the Saipan Chamber of Commerce Board of Directors and more recently in a Special General Membership Meeting earlier this month, in an overwhelming vote of confidence, the majority of our members support the Chambers overall position. I wish to convey to you Madam Chairwoman and members of this committee that the Chamber recognizes and understands that under Section 503 of our Covenant Agreement the United States

Congress has unilateral power to take control and implement the national policy of the Immigration and Naturalization Act upon the CNMI. We do not contest this apparent right and I further want to assure you it is not our position to reject this legislation but rather it is our hope that you and your fellow colleagues listen to the very real concerns we have conveyed, probably, more in questions we have concerning implementation of this legislation in promulgated rules and regulations, than in true substantive amendments that we can offer to help improve the legislation. Most of this written testimony I submit today is the same exact position paper we submitted to the Senate Committee on Energy and Natural Resources. I have provided an abridged version to ensure consistency with our submittal before your committee but our message and position is much the same.

Over the past 24 years, the Commonwealth has administered a labor and immigration program, that was designed and agreed upon by the federal and local governments to address the unique labor and tourism needs of the islands, consistent with the letter and intent of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. This program was not, and is not, intended to be parallel to or wholly consistent with the federal immigration and naturalization policies and objectives of the United States. The Covenant, and related laws, contemplated and provided for unique treatment of tourism and labor issues singular to the Commonwealth. Now, 29 years after the implementation of the Covenant, the Commonwealth is being taken to task by staff members of the United States Congress for not fulfilling some apparently unstated objectives of the federal government and for allegedly abusing this system in a manner that has not

violated the Covenant, or the federally-approved CNMI Constitution, or federal laws, or local laws.

There was an observation in 1998 that the CNMI labor and immigration system "is broken and cannot be fixed locally." This has been proven wrong. As more fully addressed in our February testimony before the Senate Energy and Natural Resources Committee, Lieutenant Governor Villagomez's February testimony, the Commonwealth has made great strides in proactively discouraging labor and immigration abuses, as well as in the investigation and prosecution of alleged abuses. In comparison with the unmitigated immigration control failures of the mainland United States during the same time frame, the marked improvements in the locally-administered Commonwealth immigration program should be acknowledged and fostered.

There is a reason that you may have heard many requests for serious study of the overall issues facing the Commonwealth before the United States Congress continues to legislate our future – requests from the Chamber of Commerce, from the local administration, from our Resident Representative, and in written form from individuals, as well as a local group that collected hundreds of signatures of both United States citizens and non-resident workers. The reason that there is much clamor for such a study is that so many people believe it is impossible for this Committee or the United States Congress to formulate sound policy, or even to determine if federal policy needs to be formulated at all, without the benefit of an impartial, unbiased, and current review of the Commonwealth's strengths and weaknesses. All of the testimony you have heard and read to this point, including previous testimony from the Chamber, comes from specific viewpoints and with certain hopes and expectations. If you do not have access to

underlying facts, how can you move forward in a fair fashion? What is needed before Congress can continue is the serious and comprehensive study that has been asked for from many quarters – not additional opinion.

While media reports might lead the uninformed to believe otherwise, the CNMI government and its agencies have worked closely with various agencies of the federal government for 24 years, in an attempt to ensure that programs designed to stimulate economic growth did not condone, promote, or tolerate labor abuses. The Commonwealth's foreign worker program solves a labor shortage problem with respect to many job categories and provides attractive employment opportunities for foreign workers who earn many of times what they would earn in their home countries, at salaries that are affordable to local businesses struggling to survive in an isolated and depressed economy, and which jobs would be unattractive to mainland workers at the prevailing wages. Workers are free to transfer to different employers with the consent of their current employer, or may unilaterally choose to transfer at the end of their contract period (which is usually one year). Workers enjoy all legal protections available to United States citizens, and in some respects, even more. All employers are required to provide medical coverage for non-resident employees, and are also required to provide return airfare to each non-resident employee's country of origin at the termination of each employee's contract term if that employee desires to return home. All of this information has been disclosed on many occasions, in many forms, by many individuals and groups. There is little more that I can add to the detailed testimony offered by the local administration, the Chamber, and others, as well as in other forums with federal officials,

other than a plea that you study and consider facts and not tired, biased, and demonstrably false allegations.

Former Director of the Office of Insular Affairs (Clinton Administration) Mr. Allen Stayman has referred to our local immigration and labor departments as "essentially organized crime." To suggest that trafficking, prostitution, or other human rights abuses are the result of the policies, procedures, or efforts of the CNMI government is irresponsible, false, and unbecoming of a federal official. There occurs, in the mainland United States, frequent and well-publicized human trafficking, with related prostitution and human rights abuses. No one, including me, would suggest that these terrible acts, committed by criminals, are somehow the fault of the Immigration and Naturalization Service, or that law enforcement agencies are turning a blind eye. It is unfair and disingenuous for Mr. Stayman to ascribe broad criminal intent and/or behavior to our local government as a result of similar individual unfortunate events that may occur in the Commonwealth. There will always be bad people who commit criminal acts. The most we can expect of any government is that best efforts are made to deter such behavior, and vigorous prosecution occurs whenever such behavior is uncovered. That is what happens in the Commonwealth, both at the local and federal levels.

While there has been much discussion that "federalization" is the only option, there is simply no empirical evidence that the Commonwealth's immigration system can be more effectively run through federal offices than by retaining local control for purposes of administering a tourism-based and employment-based immigration program. Our economy is small and fragile. The much-improved processes and procedures in the Commonwealth allow for nimble adjustment to the ever-changing needs and

requirements of the countries from which workers and tourists originate. Unlike the mainland United States, the Commonwealth will not have the luxury of waiting for federal machinery to gear up and effectuate changes required by any country or in response to the needs of that country's citizens – those travelers will simply opt to travel to another Pacific-rim tourist destination with less onerous and time-consuming visit requirements for vacationing. If the well-publicized visa delays currently being experienced by many visitors to the United States were to occur in the CNMI, the results would be disastrous to the tourism industry and the business community as a whole.

It has been suggested that the Chamber has opposed any "U.S. action" with respect to improving our local labor and immigration processes. In the Chamber's testimony before the U.S. Senate on S.B. 1634, we averred, "*across-the-board imposition of federal law*…will [not] solve any problems, real or perceived, that may exist in the CNMI." (Emphasis added.) More importantly, the Chamber would "look[s] forward to an opportunity to work with federal officials to reach agreement on these important issues in ways that answer the concerns of all interested parties without destroying our local economy." The Chamber has never opposed, but in fact has and does support, working with the federal government to address any legitimate concerns. The Chamber did and does object to any such across-the-board imposition of federal immigration law to the CNMI, especially in the absence of any serious consultation and study.

The Chamber fully supports the enforcement of border protection by the federal government. This is a component of an overall immigration program that is distinct from the Commonwealth's ongoing need to control locally the admission of foreign workers as

well as tourist visitors. The federal government's border patrol obligations are explicitly contemplated in the Covenant. Federal control of local visa programs is not.

The "grandfather clause" contained in the Senate bill contemplates allowing workers who have lived in the Commonwealth for more than five years prior to the enactment of the law the right to "lawful nonimmigrant" status. Such action allows these individuals the right to remain in the Commonwealth (or, for that matter, relocate to the mainland United States) for purposes of living and working. This action would allow the right to immigrate family members to the Commonwealth under "immediate relative" status. Such status would be renewable by those individuals every five years. They would not be eligible to vote or to receive federal entitlements, such as Medicaid/Medicare, federal scholarships, and the like. We have estimated that approximately 8,000 current workers in the Commonwealth would qualify for such status. There are two possible outcome scenarios under this grandfather clause, and neither is good. The implications of allowing almost 8,000 individuals, who are currently required to return to their countries of origin when they are no longer able to obtain employment in the islands, to remain – and to immigrate immediate relatives to join them, for the long-term – are profoundly negative for the Commonwealth. These tens of thousands of lawful nonimmigrants would be given the same preference for local jobs that this Senate has repeatedly claimed to be attempting to protect for United States citizens. These lawful nonimmigrants and their families would prove an immense burden on the local infrastructure in a way, and to a degree, that was never contemplated by – nor allowed – under the Commonwealth's existing guest worker program. In addition to our objection to the apparent intent to amend the Commonwealth's Covenant-sanctioned

immigration program *ex post facto*, we note that there seems to be absolutely no congressional contemplation of the funding for the enormous costs that would certainly be shouldered by the Commonwealth in such an event.

There is another possibility concerning these individuals who would be granted lawful nonimmigrant status and who would be able to travel freely to and work in the mainland. They could simply move to the continental United States in search of higher-paying job opportunities than exist in the Commonwealth, thereby depriving the vast majority of local employers of the qualified and experienced labor pool that they have, for years, paid and treated fairly in accordance with CNMI law under the provisions of the Covenant. Aside from the implications for the United States of allowing the immigration of thousands of foreign nationals to the mainland, which is not the concern of the Commonwealth government or business community, it would prove a tremendous blow to business in the Commonwealth. While we have heard the concerns with "fairness issues," we believe (except when employers violate the law), that the business community and the local government have treated these individuals fairly. Non-resident workers are hired for limited-duration contracts, which may be, and usually are, renewed on an annual basis. There has never been any promise of permanent residency, or any other federal immigration status. These workers have, for the most part, elected to remain in the Commonwealth and work for wages, and under conditions superior to other alternatives they have. Those who have received better offers have left. "Unfairness" has been created by federal officials who raised the issue of "likely" federal immigration status for non-resident workers in an effort to bolster support for federal immigration control in whatever quarters they could.

To a large degree, our most serious reservation with the House bill is that it appears to legislate through yet-to-be-determined regulation. While we have no doubt that this Committee and this Congress have only the best intentions, and the best interests of the Commonwealth at heart, we must object to any legislation that places so much power with so little congressional direction in the hands of future Cabinet Secretaries.

In January of this year, Mr. David Cohen spoke at the Chamber's inaugural dinner and noted,

> I was at a meeting the other day, and one of our local legislative leaders remarked that at most, only 20 percent of the Members of Congress have even heard of the CNMI. And I thought to myself, 'That's the good news; the bad news is that that 20 percent has only heard about the CNMI because they read Ms. Magazine.' Most Americans who have any sort of impression at all about these islands have the wrong one.

Mr. Cohen's apt comments about the power and impact of biased and misleading reporting sum up my feelings about the negative and untrue publicity that continues to parade as "fact." We have asked for serious study by an independent government agency, the General Accountability Office, before the finalization of any legislation. What we received instead was no study by anyone and a bill apparently not based on our current reality that commits significant issues to future determination by unknown appointed federal officials.

CONCLUSION

We plead with this Committee to study the likely impact of this legislation before it is enacted, and not after. It is manifestly unfair to the people of the Commonwealth – United States citizens – for this Congress to impose a law on the islands that will not only

wreak havoc with our labor pool and our tourism industry, but will also dramatically alter the quality and nature of life, the demographic make-up, and the right to local governance over local issues that we negotiated for and agreed to in the Covenant.

The Chamber would be pleased to answer any questions or provide further information that might be of assistance to this Committee.

Si Yu'us Ma'ase, Olomwaay, and Thank You.