



*The House of Representatives*  
16<sup>TH</sup> COMMONWEALTH LEGISLATURE  
P.O. BOX 500586  
SAIPAN MP 96960

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August 18, 2008

Members of the House of Representatives  
16<sup>th</sup> Commonwealth Legislature  
Po Box 500586  
Saipan, MP 96950

RE: Request for members to decline Standing Committee Report 16-36, and to reiterate request to recall House Bill 16-86 from the Judiciary and Governmental Operations Committee for placement on bill calendar

Dear Members of the House of Representatives,

We respectfully appeal to you to decline to accept Standing Committee Report 16-36, on the grounds that it is an improper committee report on House Bill 16-86, "The Resident Foreign Act of 2008," pursuant to Sections 625, 663, and 675 of Mason's Manual of Legislative Procedure (2000 ed.) ("Mason's"). It is also an incomplete report, as it omits significant information submitted during the public comment period for the bill.

We also request your support for the recall of H.B. 16-86 from the Committee on Judiciary and Governmental Operations ("JGO") so that the bill may be placed on the calendar. The request for a recall of the bill was first submitted by Representative Christina Sablan to the Floor Leader on July 25, 2008 (memorandum attached). The memorandum cited divisions within the JGO Committee and the significance of the labor and immigration issues raised by the bill as the reasons for the request. We hereby reiterate that request by this letter.

**I. BACKGROUND**

House Bill 16-86 was introduced at the House session on April 24, 2008, by Representatives Christina Sablan, Victor Hocog, Heinz Hofschneider, and Edward Salas. The bill was referred to the JGO Committee on April 28, 2008.

Public hearings were held in the senatorial districts of Rota (June 7, 2008); Saipan (June 12, 2008); and Tinian (June 13, 2008). Written and oral testimonies were accepted at these hearings, and during the public comment period that began around the time of the bill's introduction and ended June 30, 2008.

On June 25, 2008 the JGO Committee held an official meeting in the Speaker's Conference Room to review and discuss a number of bills pending in the committee, including House Bill 16-86, as well as comments received. The members present included the JGO Chair Representative Rosemond Santos; JGO Vice-Chair Representative Edward Salas; and

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Representative Joseph Reyes. Representative Christina Sablan was off-island, and Representative Edwin Aldan was absent. With three members present, a quorum was established, and House Bill 16-86 was taken up for discussion. Representative Santos proposed to file House Bill 16-86; Representative Salas disagreed; and Representative Reyes asked for more time to review the bill. The issue was tabled for further discussion. No official decision was made by the committee at this meeting to act on the bill in one way or another. No official JGO Committee meeting has been called since June 25, 2008.

At the House Session on July 31, 2008, JGO Chair Representative Santos submitted House Standing Committee Report 16-36, which recommended the filing of House Bill 16-86. The report was signed by Representative Santos, Representative Reyes, and Representative Aldan. The report had been drafted and signed by the JGO Chair and two JGO Committee members outside of a properly assembled committee meeting to review and adopt the report.

## **II. STANDING COMMITTEE REPORT 16-36 IS AN IMPROPER REPORT.**

Although Rule VII, Section 9(b) of the 16<sup>th</sup> House Rules provides that a report shall be considered adopted by a committee when the Chairperson and a majority of the members of that committee have signed the report concurring therein, the 16<sup>th</sup> House Rules do not address the question of whether or not committee reports can be properly adopted if they are signed outside of a properly assembled committee meeting. According to Rule XVI, Section 2 of the 16<sup>th</sup> House Rules:

- *“In the event that any ambiguity or conflict should arise regarding these Rules, or in the event that these Rules do not address a question or situation which may arise, then such controversy shall first be resolved according to the rules and principles set forth in Mason’s Manual of Legislative Procedure, 2000 Edition (Mason’s).”*

Thus, pursuant to Rule XVI, Section 2 of the 16<sup>th</sup> House Rules, we call your attention to the following rules and principles set forth in Mason’s:

### **1) Section 625: Committees Can Act Only When Properly Assembled.**

- 625.1: *“A committee can act only at a meeting and not by separate consultation and consent, and a committee has no authority to report anything not agreed upon when actually assembled.”*
- 625.2: *“When no meeting of a committee has been held, a report of the committee cannot be properly presented to the body. It is irregular for a committee to report on any matter that has not been considered by it in a formal meeting and the report authorized. The presiding officer should rule out of order any report that has not been considered in committee.”*

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2) **Section 663: Preparation of Committee Reports.**

- 663: “No one has authority to make a report for a committee except as authorized by the committee. Usually, the committee chair prepares a draft of the report and submits it for approval by the full committee. The chair is never justified in making a report that has not been approved by the committee.”

3) **Section 675: Improper Committee Reports.**

- 675.1: “It is not in order for a committee to report a bill or other matter that was not considered at a properly called committee meeting.”
- 675.2: “[...] A paper circulated and signed by a majority of the members of the committee reporting a bill or authorizing a certain committee action to be taken, in the absence of a rule authorizing that procedure, is ineffective and cannot be regarded as a report of the committee because a committee can act only when convened as such.”
- 675.3: “A bill not properly reported from a committee is not entitled to its place on the calendar and should be referred back to the committee.”

According to Mason’s, Standing Committee Report 16-36 is not a proper and valid committee report. It should be ruled out of order, and should not be placed on the calendar.

**IV. STANDING COMMITTEE REPORT 16-36 IS AN INCOMPLETE REPORT.**

The report recommends the filing of House Bill 16-86 despite findings that the proposed eligibility requirements for resident foreign national status are reasonable and that the proposed resident foreign national program would benefit the CNMI. The primary reason cited for recommending the filing of the bill seems to be that the bill would be superseded by U.S. Public Law 110-229, which was signed into law on May 8, 2008. The report notes:

*“This federal law will extend the United States immigration laws [as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(17)], to the CNMI subject to a transition period that takes effect on June 1, 2009. As a result, U.S. Public Law 110-229 will supercede and preempt all Commonwealth statutes pertaining to the entry and removal of all foreign workers within the CNMI.”*

The report further acknowledges that both “strong opposition and support” for House Bill 16-86 were expressed during public hearings held on Saipan, Tinian, and Rota, and that both sides produced “valid reasoning.” The report falls short of specifics, however, and omits critical and valuable information received during these public hearings and a comment period that lasted over six weeks -- including testimony that addressed the report’s main argument that the bill would be moot as a result of U.S. Public Law 110-229. Counter-arguments that the resident foreign national program could provide a starting point for negotiations with the

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federal agencies in the drafting of the new regulations, including the Commonwealth-Only Transitional Guest Worker Program, and that it could help ease the CNMI's transition to the new federalized immigration program, are not considered at all in this report.

Attached to this letter is a summary of most, if not all, of the extensive and numerous comments, both for and against House Bill 16-86, that were received during the public hearings and public comment period. These comments have not been carefully and diligently considered in any properly assembled JGO Committee meeting, and are only briefly and superficially mentioned in Standing Committee Report 16-36.

Standing Committee Report 16-36 is incomplete in its review of House Bill 16-86, and as such should not be adopted by the House.

**V. HOUSE BILL 16-86 SHOULD BE RECALLED FROM THE COMMITTEE**

This is a critical time for the CNMI. The new federal immigration regulations are presently being drafted for the CNMI. In briefings with federal officials, members of the Legislature have expressed deep concern about the impacts the new federal law may have on the stability of the local workforce and on the economy, and they have also expressed a keen interest in actively participating in the development of the new federal immigration program in collaboration with federal officials.

House Bill 16-86 presents one option that could help stabilize the CNMI's workforce in this transitional period, and that could also potentially be considered for accommodation in the new federal immigration program. Members of the Legislature should at least be given the opportunity to fully and thoughtfully debate the pressing labor and immigration issues raised by House Bill 16-86, to offer amendments and improve the bill if that is the course of action the body wishes to pursue, and to vote on this bill in a timely manner. The CNMI retains local control over immigration until June 9, 2009, the earliest date at which U.S. Public Law 110-229 would take effect. The federal government may recognize resident foreign national status that is granted to eligible foreign workers if it is granted prior to that date. The federal government is unlikely to recognize any local legislation bearing on immigration that is enacted after that date.

We appeal once again to the members of the House to decline to accept Standing Committee Report 16-36 for all the reasons stated above, and to support the recall of House Bill 16-86 from the JGO Committee for placement on the bill calendar.

Thank you very much.

Sincerely,

Rep. Edward Salas  
Vice-Chair, JGO Committee

Rep. Christina Sablan  
JGO Member

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**SUMMARY OF COMMENTS SUBMITTED ON HOUSE BILL 16-86**  
**During Public Comment Period April 28, 2008 – June 30, 2008**

For H.B. 16-86

- Honorable Mayor Joseph F. Inos (Rota). Intent of House Bill 16-86 is very commendable and important. Resident foreign national category recognizes those with a long-time presence in the CNMI. Resident foreign nationals have a vested interest in the local community and spend more of their earnings on island. They have also adjusted to the local custom and culture, which promotes family values and respect for commonwealth laws and regulations. Legislature should enact this bill for the benefit of all citizen and non-citizen workers in the CNMI.
- Mr. Vianney Hocog (Rota) -- Supports House Bill 16-86 for economic reasons. Bill could help restrain remittances as resident foreign nationals will be likelier to spend their money in the CNMI. Most people do not understand Public Law 15-108.
- Mr. Justin Manglona (Rota) – Fully supports House Bill 16-86. Rota will be developing casino industry, and will need an adequate workforce.
- Mr./Ms.: Abdul Motin, Edris, Dulal Khan, Abdur Rayefau, Nur Islam, Mojobar, Kamal Hossen, Faize Akon, Jamal Bapary, Osman Gani, Abdul Raul, Md. Dalamar Hossain, Socaman, Severenio Candia Jr., Candelari Feolino, Lucrecia Munar, Angelita Bulosan, Aj Ait Ali (Rota) – Members of Bangladeshi/Filipino community of Rota, submitted signatures in support of House Bill 16-86. All have lived in Rota for 12 years or more and consider Rota their home. House Bill 16-86 would help improve their lives.
- Mr. Michael Ada (Saipan)– Deputy Secretary of Commerce. House Bill 16-86 will help support the labor needs of the CNMI. The Department of Commerce’s only concern is the provision of the bill that would allow resident foreign nationals to open and operate businesses. This provision conflicts with the foreign investment program currently in existence, which has minimum investment thresholds, and may result in the loss of approximately \$200,000 in licensing fees for the Department. Requested that the Department of Commerce be allowed to monitor any businesses opened by resident foreign nationals.
- Mr. Tony Pelligrino (Saipan) – It is difficult to find local tradesmen in the CNMI. In 1999 there were 3,900 people on welfare; today, there are 8,500 people on welfare. Ten out of 300 people in maintenance are local citizens. Need to change attitudes about work in the CNMI; a trade school will help. Five-year permit is too short.

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House Bill 16-86 is a fantastic bill. The CNMI needs both trained locals and foreign resident workforce.

- Mr. John Camacho (Saipan) – Hotel owner and operator. Local citizens and foreign workers need to coexist and work together. House Bill 16-86 is a unique proposal. Northern Marianas College was supposed to be a trades school, but has failed. CNMI needs to look to the future and build a trades school along with Northern Marianas College. Children can't find jobs in the CNMI and need to be prepared for the workforce. There is no need to segregate workers. CNMI government needs to better enforce its laws and improve the quality of life of the community.
- Mr. Mark Quitugua (Saipan) – Unemployed, 25 years old. Supports bill, except that minimum residency requirement should be extended to 10 years. Local citizens will not benefit if residency requirement is only 5 years, but increasing residency requirement will help open up more jobs for citizens. Approximately 10,000 foreign national workers will be eligible for resident foreign national permits if minimum residency requirement is only 5 years. Approximately 3,000 foreign national workers will be eligible for resident foreign national permits if minimum residency requirement is 10 years.
- Ms. Malou Berueco (Saipan) -- Responding to Mr. Greg Cruz's comments in opposition to bill. House Bill 16-86 is not a waste of taxpayers' time and money. Guest workers are also taxpayers and public officials should listen to their concerns as well. Guest workers paid \$12million in taxes last year. The CNMI should not just wait for the federal government to develop immigration regulations. Local government still controls immigration. House Bill 16-86 does not offer permanent residency. Resident foreign nationals will not outnumber local citizens. Approximately 20,000 guest workers live in CNMI. Demanding is different from requesting. They are not demanding improved status, but simply requesting.
- Mr. Ron Hodges (Saipan) – Teacher. Approximately 2,000 students will graduate this year. Would like to see them placed in jobs, but we all know this is not going to happen. House Bill 16-86 will help ease transition to federal immigration program.
- Mr. Steve Woodruff (Saipan) – Citizen, employer, and attorney for Dekada organization. Attitude that CNMI should “let the feds decide” makes no sense, especially coming from advocates for self-government. CNMI has labor problems that need to be addressed, and needs to prepare for transition to federal immigration program. CNMI needs a free labor market. CNMI Department of Labor needs to act like a real Department of Labor, and not just a foreign labor processor. House Bill 16-86 will not marginalize local citizens, but makes all workers have common interest. CNMI is strengthened in diversity. No one is demanding federalization, and Unity March is not relevant to House Bill 16-86. Free speech is free speech.
- Ms. Irene Tantiado (Saipan) – Representing Coalition of United Workers. Supports

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House Bill 16-86 not because it favors guest workers but because it provides a win-win situation for economy, government, and all workers. A good economy is good for all. Indigenous people will not become a minority – they are the owners of the islands, unlike foreign investors and guest workers. House Bill 16-86 does not grant citizenship, and citizens still retain employment preference. Resident foreign nationals would be able to start small or medium sized businesses. Resident foreign nationals are more familiar with CNMI culture and laws. House Bill 16-86 would make guest workers less vulnerable to abuse and would result in fewer labor complaints.

- Mr. Jun Conselho (Saipan) – House Bill 16-86 is not a waste of time. Would benefit CNMI and all workers. Businesses want stability to invest here. If immediate relatives are allowed to come to the CNMI, there would be no need to send money out of the CNMI in remittances.
- Mr. Dragon Edong (Saipan) – Tattoo artist, originally from the Philippines, but long-time CNMI resident and represents the CNMI in tattoo art competitions abroad. Supports House Bill 16-86. Bill does not give permanent residency, and would strengthen workforce.
- Mr. Jerry Custodio (Saipan) – Representing Human Dignity Movement. Long-time guest workers have no rights here. In other places they are more appreciated. Guest workers are partners in development. Some workers have U.S. citizen children; CNMI is home for them.
- Mr. Rabi Sayed (Saipan)— Worried about children. Thousands of U.S. citizen children living in the CNMI with their alien parents. Supports House Bill 16-86.
- Ms. Regie (Saipan) – Guest worker on Saipan for 23 years. House Bill 16-86 would relieve employers of headaches of renewal, and would relieve employees of anxiety every year. Appealed to local citizens to give House Bill 16-86 a chance.
- Mr. Manzurul Alam (Saipan) – Fully supports House Bill 16-86. Bill protects everyone, though it does not grant permanent residency. Alien workers built infrastructure and brought expertise to the islands. Mr. Alam used to be CIP Coordinator for Department of Public Works.
- Ms. Ruth Tighe (Saipan) – Responding to Mr. Alex Sablan’s and others’ comments in opposition to the bill. The CNMI should not defer to the federal government in the drafting of the new immigration regulations. It is important to have something in place before federal agencies start drafting regulations. Not a good idea to start with a blank slate -- House Bill 16-86 would provide a starting point for negotiation between the CNMI government and the federal government.
- Mr. Frank Stewart (Saipan) – House Bill 16-86 is a benchmark; the CNMI is changing,

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and change is difficult. The bill speaks to the humanity of the CNMI people.

- Ms. Alexis Fallon (Saipan) – Supports House Bill 16-86.
- Ms. Gloria Balani (Tinian) – Business owner since 1992, has lived on Tinian since 1982. Has foreign investor permit and runs construction, security, beauty parlor, and dress shop businesses. Employs both citizens and foreign nationals. Has difficulty dealing with Labor due to extensive paperwork and administrative processing requirements. Supports House Bill 16-86.
- Mr. James Benedetto (Saipan) – Federal Labor Ombudsman. House Bill 16-86 represents a tremendous improvement for long-term guest workers, and will also likely benefit the CNMI economy and employers. Bill would give workers eligible for resident foreign national status an increased measure of stability and security, since immigration status would no longer be tied to a single contract with a single employer. Resident foreign nationals would probably have far fewer labor complaints and would be more likely to lease homes or land, buy cars, and invest their money in the community, thereby contributing to the local economy. CNMI employers would no longer have to pay annual permitting fees of \$275 for each foreign worker, or incur the time and expense of filing paperwork that is currently required to hire foreign workers, and the money they save can be reinvested. Employers will also have ready access to workers who have already proven their productivity. Department of Labor will be relieved of the burden of processing thousands of permit and transfer applications, and will likely receive far fewer labor complaints. Proof of legitimate employment (i.e., W-2s, tax returns, pay stubs, or other documentary evidence of actual legitimate employment) should be required for the new permit status. Although resident foreign national status cannot be “grandfathered” past the beginning of the transition period in the absence of statutory recognition in U.S. Public Law 110-229, it might be accommodated during the transition period, at least for those persons who have been granted this status prior to June 1, 2009. Five-year work permits would theoretically last until June 1, 2011 at which point permit holders would likely be able to participate in the Commonwealth-Only Transitional Worker program if they have jobs and are employed in a sector of the CNMI economy that is found to be in need of alien workers to supplement the resident workforce. It is highly unlikely that any grant of resident foreign national status after June 1, 2009 would be legally effective or recognized by the federal government.
- Ms. Leila Staffler (Saipan) – House Bill 16-86 would positively affect her family. Husband has lived in CNMI since 1978 and is an Austrian citizen. CNMI is his home. Passing House Bill 16-86 into law would help family because they would not have to annually renew IR status. They are in the process of applying for a green card and citizenship, but until then must continue to apply for and submit fees for IR status. House Bill 16-86 would help level the playing field in the labor market, making employers compete for employees. Many guest workers have been working productively in the CNMI for more than ten years. Bill would ease their annual stress

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and the costs related to it (for the businesses that have been continually renewing these productive employees for all these years).

- Mr. Carlito J. Marquez (Saipan) – Contract worker presently working for Pacific Marine & Industrial Corporation (Power Plant 4). Came to Saipan in 1996 to work and earn money to support family and to explore his knowledge and skills in his chosen field of work that is beneficial to the community. Considers himself part of the CNMI community, and fully supports House Bill 16-86.
- Ms. Jackielyn San Nicolas (Saipan) – Supports House Bill 16-86.
- Mr. Rafiqul Islam (Rota) – House Bill 16-86 is a good bill, fair for long-term workers and good for the economy.
- Mr. Don Cohen (Saipan) – Supports House Bill 16-86, provided that it falls into agreement with federal regulations.
- Mr. Kent Atalig (Rota) – Agrees to most of House Bill 16-86, including provision that would allow resident foreign national workers to open businesses. However, responsibility for medical payments, insurance, and housing should be clarified in the bill.

### Against House Bill 16-86

- Ms. Jacinta Kaipat (Saipan)—Deputy Secretary of Labor. The Department of Labor opposes House Bill 16-86. Bill has no protections against fraud. Title of the bill is misleading. Most of the findings have no basis. Bill seeks to provide permanent residence and backdoor to citizenship and voting rights. Resident foreign nationals would not have to work. Five-year period is too short. Bill would result in flood of persons who would qualify. Provision that would allow Division of Immigration to establish cap on number of resident foreign national permits issued is vague and unrealistic. Might be appropriate to liberalize conditions under which some foreign workers remain in some regards, but not to change their status. Also might be more acceptable to establish more modest proposals to assist in the longer-term stay of a smaller number of foreign nationals, however.
- Ms. Lydia Camacho-Romisher (New Mexico) – Agrees with Ms. Jacinta Kaipat’s assessment of House Bill 16-86. Political, social, economic impact and other ramifications will be devastating for the CNMI. Legislation might be legally insufficient and in violation of the constitutional prohibition on increasing classes of nonaliens. Foreign workers are privileged to be in the CNMI, are not indispensable, and should never be given the same rights and privileges as permanent residents. Bill appears to be nothing more than an amnesty bill for select groups of foreign nationals.

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- Mr. James Santos (Saipan). Secretary of the Department of Commerce. House Bill 16-86 would nullify the foreign investment program. An estimated 85% of existing foreign investors would qualify as resident foreign nationals, and the CNMI government stands to lose at least \$200,000 in annual fees from the loss of foreign investor applications.
  - Mr. Richard Taisacan (Rota) – Resident Director of Labor. House Bill 16-86 is flawed and will create problems with federalization. Bill lacks control measures, and is a runaway bill. CNMI needs foreign workers but there should be limits. Public Law 15-108 is an excellent law that creates checks and balances, protects all workers, and ensures adequate documentation. Many work certifications are bogus; illegal sponsorship schemes, human trafficking, illegal work, and sham marriages are common. Employees run away because their employers do not pay them. Remittances are a problem in the CNMI. Businesses owned by foreign nationals are likely to hire foreign nationals. Supports federalization and is glad federal agencies are stepping in. There are a lot of good foreign workers, wonderful people who are helping the CNMI, however. Might favor the bill more if there were provisions for citizens. Citizens need to be educated.
  - Mr. Oscar Rasa (Saipan) – Representing organization for self-government and indigenous rights. House Bill 16-86 is not in the best interest of local citizens. Federal government should be allowed to follow its own course in immigration regulations. Did not sign the Covenant because he believed the Chamorros and Carolinians would be marginalized.
  - Mr. Gonzalo Pangelinan (Saipan) – Local citizens abroad need jobs, but cannot find work here because the jobs are already filled by foreign national workers. Let the federal government decide what to do about immigration regulations. Federal law will never be changed.
  - Mr. Tom Camacho (Saipan) – Felt discriminated against by foreign management when applying for jobs. Local citizens need help, and should be the priority. Local citizens came first, and are now outnumbered. Tensions are growing in the community, and something chaotic may happen if something is not done.
  - Mr. Greg Cruz (Saipan) – Representing Taotao Tano organization. Taotao Tano is not racist, but seeks to protect indigenous rights and culture. Federalization is about national security and border control. Federal immigration regulations should be left to the federal agencies. Unity March and foreign workers' demands for status make the CNMI look bad. House Bill 16-86 is a waste of taxpayers' time and money. Local citizens, not nonresident workers, but elected leaders into office.
  - Mr. Alex Sablan (Saipan) – Takes offense to sentiments that some guest workers have of not feeling welcomed in the CNMI, especially if they have been allowed to live in the CNMI for many years. CNMI's labor situation has not been the best. Public Law

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15-108 was too little, too late. House Bill 16-86 is the same. Businesses fought federalization, but now it is here. Going forward with House Bill 16-86 will be a waste of time.

- Mr. Marvin Pangelinan (Saipan) – Any CNMI immigration bill will be null and void because of U.S. Public Law 110-229. CNMI has bigger things to worry about, like CUC.
- Mr. Freddy Hofschneider (Tinian) – House Bill 16-86 might be too late as CNMI is now in transition to federalization. Supports federalization.
- Honorable Mayor Juan B. Tudela (Saipan) – Mayor of Saipan. House Bill 16-86 might be well-intended, but it would be too little, too late to erase what has happened during the past 30 years of local control [over immigration]. It does not make sense to try to implement a controversial five-year residency system in the eleventh-hour as CNMI is preparing to close the books regarding local control over immigration and labor.
- Mr. James Arenowski (Saipan). Representing Saipan Chamber of Commerce. House Bill 16-86 seems to disregard the intent of U.S. Public Law 110-229, which is to phase out the nonresident contract worker program in the CNMI. Chamber disagrees with findings that maximum two-year entry permit is too brief to establish a stable and reliable noncitizen workforce, and that resident foreign national status would benefit all workers by promoting a higher wage structure, improved working environments, and increased productivity. Opposes granting of employment preference to resident foreign nationals. Also opposes allowing unemployed resident foreign nationals to remain in the CNMI and worries about potential liabilities of government or former employers to cover medical costs of unemployed resident foreign nationals.

- End -