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## CONGRESS OF THE PHILIPPINES

SENATE

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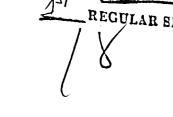
CP - SENATE

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Republic of the Philippines CONGRESS OF THE PHILIPPINES

S E N A T E Pasay City



### COMMITTEE ON JUSTICE AND HUMAN RIGHTS

DATE

Tuesday, April 23, 2002

TIME

1:30 P.M.

**VENUE** 

Senator Claro M. Recto Room

2nd Floor, Right Wing, Senate, Financial Center,

Roxas Blvd., Pasay City

AGENDA

Consultation on Dual Citizenship with Embassy

Representatives

#### ATTENDANCE:

HON. FRANCIS N. PANGILINAN - Chairman

HON. JUAN M. FLAVIER HON. RODOLFO G. BIAZON

#### **GUESTS/RESOURCE PERSONS:**

MR. THEODORE ALLEGRA - US Embassy; Chief, American Citizen

Services

MR. J. SCOTT WIEDMANN

- US Federal Voting Assistance

Program

MR. SANTIAGO BUSA

- US Embassy

MS. CEDRA EATON

US Embassy (ACS)

#### SENATE SECRETARIAT:

MS. ASSUMPTION INGRID B. REYES - Legislative Committee

Secretary

MS. ANNA LEAH C. CATIMBANG - Committee Stenographer

MS. BATHALUMAN H. GONZALEZ - -do-MS. NIDA A. MANCOL - -do-MS. MAYBELLE H. BALAGNE - -do-MS. MARIVIC H. ULEP - -do-

MS. GINA P. DELLOMES - Assisting Clerk
MR. JESUS P. NUÑEZ - Legislative Page

MR. RONNIE CABAÑERO - - do-MR. JOSEPH SAMANO - Audio Technician

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# SENATOR'S STAFF:

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RUSIER I. NOLASCO	-	O/S Pangilinan
RONALD P. RODRIGUEZ	-	O/S Biazon
ATTY. HILARIO DELOS SANTOS	-	O/S Biazon
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REY BANTUG	-	O/S Drilon
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BERNADETTE LASO	-	O/S Barbers
SEVERINO RAMOS	-	O/S Pangilinan
RAMON NAVARRA, JR.	-	O/S Flavier
ATTY. RUDY QUIMBO	-	O/S Flavier
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FRANCIS ALBERT OLEGARIO	-	O/S Oreta
CHARMAINE RUIZ	-	O/S Biazon
MARICEL RUGA	-	PLLO
REESA NOVELLA	-	O/S Villar

AT 1:43 P.M., HON. FRANCIS N. PANGILINAN, CHAIRMAN OF THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS, CALLED THE CONSULTATION MEETING TO ORDER.

THE CHAIRMAN. As Chairman of the Committee on Justice and Human Rights of the Philippine Senate, we hereby call this consultation meeting into order.

We would like to acknowledge the presence of the following: We have with us Senator Juan Flavier and Senator Rodolfo "Pong" Biazon. We would also like to acknowledge the presence of our resource persons. We have Theodore Allegra, First Secretary and Consul, Embassy of the United States. We also have with us Consul Sonny Busa of the US Embassy together with -- is this Cedra? -- Cedra Eaton, Vice-consul of the United States Embassy. have with us from the Federal Voting Assistance Program of the Department of Defense. Deputy Director J. Scott Wiedmann. Good afternoon, gentlemen and lady. Thank you for your time this afternoon.

Before anything else, we would like to inform our resource persons that there may have been some slight mix-up in terms of the topic and discussion for today's consultation meeting of the Committee on Justice and Human Rights. However, we will make do

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and make the most out of this consultation meeting. The consultation meeting was to discuss, primarily, the issue of dual citizenship. A bill -- several bills are pending before the Committee on Justice and Human Rights. We're about ready to prepare the committee report on dual citizenship. And we felt it would be a good opportunity to sit down with some members or some officials of the United States Embassy, mainly because during the consultations undertaken in the United States on another bill, that is also pending before another committee, the Committee on Constitutional Amendments, the Absentee Voting Bill, the consultations that were conducted in the United States, particularly in New York and in the East Coast and LA -- Los Angeles -- and the West Coast, many of the questions raised by the Filipino-Americans were the issue ofon dual citizenship. So, we felt, maybe, it would be good to come up with some consultations with the US officials Embassy here. However, as the communications went from the Senate to US Embassy, apparently there was an understanding on the part of the US Embassy officials that we will be discussing the Absentee Voting Bill. And that explains why Mr. Wiedmann is here, this afternoon,



because he is Deputy Director of the Federal Voting Assistance Program. In order to address this seeming -- or this miscommunication, so to speak, we will address both. After all, the Absentee Voting Bill will be presented -- the committee reports will be presented, I believe, either next week or the week after next. And it is also a landmark bill. Plus, as I said earlier, before we convene, the Dual Citizenship Bill and the Absentee Voting Bill are intimately related. The of granting citizenship, for example, or the passage of the Dual Citizenship Bill may or may not have a direct impact in the -- in terms of the rights of some of the citizens in terms of participating in the absentee voting process. Having said that, so we'll tackle both. We would like first, perhaps, to give -- as it goes here, this is a consultation meeting not a public hearing. It can be -- it is more informal in that respect. Normally, we go through the process of asking our resource persons to give an opening statement. And we will do the same today. And with that, we can proceed first with absentee voting issue. And we are fortunate and it's a privilege to have the Deputy Director of the Federal Voting Assistance Program, J. Scott

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Wiedmann, with us. And you have the floor, Mr. Wiedmann.

MR. WIEDMANN. Good afternoon. Senators. I appreciate you taking the time to listen to the way that the Absentee Voting Program is run in the United States. What I can offer to you is, basically, that a brief of the absentee voting program from the United States' perspective and the way it is operated there.

In the United States, we do not have federal elections. In other words, US government does not hold any elections. All elections are run by the state governments and the territory governments, 55 states and territories. Any particular citizen wishing to vote in American election either for the federal offices which would be US President, the US Senate and the US House of Representatives, would make application with their home state of residence and requests to be registered to vote and requests an absentee ballot to be mailed to them wherever they happen to be in the world. My office, we sit in the Department of Defense because we administer a law, a United States Law, and I have for you these exhibits that you can take. The law itself is in the back,

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in the appendix in our voting guide here -- and that law is administered in the Department of Defense because the Secretary of Defense is a presidential designee to carry out the act, so we do that on his behalf. The system is a very simple system. done through the mails, the US mails and foreign There are three steps to country mails. process. An individual citizen sends in an official US government form -- and I have copies of these for you as well -- it's called the -- our Federal Writein -- I mean, our federal registration form. they'll send in this form to their home state, basically, notifying the state that, "I resident of your state and I have, at some point in my life, lived there and -- but I will not be there to vote at the polls in person in the upcoming election. " And this form request that they register them and send the ballot to them wherever they The second step of the process is happen to be. that the local election official, upon approving that individual citizen for registration, will then put them on a list to receive a ballot. So, when the ballots, from that particular state, available, which would include both federal offices and state local offices, state referenda, whatever



be. included on the ballot for that election. When they become available, the state -and it's actually done at the local level, many times at the county or city level, I suppose, or at a state level -- which send the ballot directly to that citizen, wherever they are in the world, the federal government does not keep any list of who is registered or who gets which ballot, it's all administered by the states. And the citizen, upon receiving that ballot, would vote it and sign it and send it back in. The original registration form, that was sent in, has the official signature of the voter and an affidavit signed by the voter, under penalty of perjury, that they are -- who they say they are in the information on the form, provided it is true and correct. And that they're not voting in any other state, in the States at that time. Upon receiving the ballot back from the citizen, that is also signed with much the same type of affidavit to secure that they are, who they say that they are, the local election official will then compare the signature on the registration form for that citizen with the signature on the ballot and some states require a notarial service or a notary to sign along with the citizen, either on the registration card or

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on the ballot itself, to guarantee that that citizen is who they say they are as well. And then they will compare that signature with that on the ballot and confirm that the person is a registered voter in that jurisdiction and then count the And, basically, we -- my office election day. provides these forms to US citizens around the world and the instruction booklets. We work through the military agencies and embassies and consulates and other US citizen organizations outside the United States. We have Republicans and Democrats, abroad, organizations, American Women's Club Organization overseas, American Chamber of Commerce that we work with to distribute the information and the forms to the citizens and to notify them of the elections that are coming up and to ensure that they have the necessary forms.

MR. ALLEGRA. I may add just one thing to that statement. All the US embassies overseas have a responsibility in their general protection and welfare of American citizen responsibilities to maintain list of groups and institutions where a lot of American citizens work or live. So, that's one of the primary responsibilities of my office, the American Citizen Services Section. And we estimate

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that in the Philippines there are about a hundred and twenty thousand American citizens, and these may be.../alicc

MR. ALLEGRA. ... These may be Americans that were born in the US. Americans that have been naturalized or otherwise. As you know that there is a unique history with the American and the Philippines, so those people that were nationals, United States nationals during the time before the Philippines begun independence, have a claim to US citizenship in the United States different from any other country around the world. So, partially, as a result of that and a close cooperation with the Philippines and close ties over the decades, there are a lot of American citizens in the Philippines and conversely, there a lot of Filipino citizens in the United States. So, one of the responsibilities of my office is to have an idea about who these people are and where they are to provide services to them. And that's not only in services, the things that hit the newspapers all the time are the services in times of trouble when American citizens are arrested or die or otherwise meet with some unfortunate circumstance. We also provide services like voting services or tax services to the American citizens here. And one of the reasons, Mr. Wiedmann's trip, he's in Manila, in the Philippines, as part of a nation's trip is to reach out to the American citizens in the Philippines, especially those that are the heads of or some of this business or other groups, other American citizens to teach them about the voting assistance process. And we've done that today, we'll do that again next year. And in the meantime, in the intrerim, my staff is now all trained up by Mr. Wiedmann and some of the materials he left to respond to the questions, and request for information that may come

through over the next weeks and months. And Mr. Wiedmann will be going out to Hong Kong and other places to do the same thing, and especially is.... Obviously, the election in the United States in the year 2000 made the interest in overseas American citizens and their voting abilities and interests are very much at the forefront of most politicians' minds in Washington. So, it's good to see, actually, that Scott(?) agency is getting in early start in 2002. Even though we have some congressional and senate elections this year, I expect that this interest will remain and probably pickup as we get closer to our next presidential election in 2004.

### THE CHAIRMAN. Thank you, Mr. Allegra.

Perhaps one question to Mr. Wiedmann. A major concern, at least, on the part of the Philippines, the Senate, with respect to absentee voting is a possibility of manipulating the results through fraud, mail fraud, although there has been no final proposal on whether or not voting will be done by mail. This is a proposal being undertaken, being pursued. How do you prevent mail fraud or fraud on the part of voters who...? Well, you know, you'd assume that the one writing is indeed a person who is indeed a legitimate voter and so forth and so on. What is the process in that area?

MR. WIEDMANN. Well, as I said, as a representative of the US Federal Government, we are not the ones who decide whether an individual person meets the residency requirements for any given state. When this form is completed by an individual citizen, it is sent to their state of residence

Once that form is received there, that person in that state will use the information, the address in that state and social security number and other information to conclude whether or not that person meets the residency requirements, and he could, therefore, cast the ballot in that state. They will also have on there the wet signature, the original signature of that individual, and there are a couple states that will require a notary as well which would, of course, guarantee that that person is who they say they are.

THE CHAIRMAN. So, is that your basic... (without microphone) that they ask for the social security...?

MR. WIEDMANN. Many states use that as the unique identifier for that citizen. Yes.

THE CHAIRMAN. That would be a good safeguard in connecting... (without microphone) and claim to be such and such person.

MR. WIEDMANN. Yes. Some states require the full social security number; some states require, for instance, the last four digits as the unique identifier to help... you know, there may be several John Does living in one particular area, in one particular county, and if it is a common name, that is something that can separate one voter from another.

SEN. FLAVIER. One of the decision points in our consideration is whom to include—there are those who are green cardholders, there are those who are in hiding. All of those are claiming the illegal, you know, residents of certain countries. In your case, it seems to be simplified to the point where

you say, only US citizens, whether holding a double citizenship or not, it's basic that they must be US citizen. Is that a fair understanding on my part?

MR. WIEDMANN. From my perspective, it is. One of the things that they are affirming when they sign this form is that they are US citizen. They are signing the form saying they are US citizen, and that all the information on the form is true and correct, and they're doing that under penalty of perjury in the United States law, Federal—perjury in the United States law. So, that is something that is on that form, as far as my understanding, I think, was even stated is that the US... if you are a US citizen, you're able to vote in the US elections.

MR. ALLEGRA. Yeah. The right to vote under US laws as long as he's a US citizen, it really does not matter whether that person holds a citizenship of another country or not. The only important factor is whether they are US citizen. If they are US citizen, they have the right to vote. Green cardholders or legal permanent residents do not have the right to vote in the United States, only US citizens.

**SEN. FLAVIER.** Did I get it right that it is also reduced to a system of mailing? It's the mail system that you use and that's it.

MR. ALLEGRA. I defer to Mr. Wiedmann for the absentee ballots, I think.

MR. WIEDMANN. Yes. The federal law that we administer, which the copy is in the back of your book, prescribes this form which is

accepted by all the states and the five territories to be accepted as a request for registration and as a request for absentee ballot from those states and territories, and the states must accept this. And that permits the individual citizens to vote through that state for the federal offices which are the President, US Senate and US House of Representatives. It's up to the individual state as to whether they would allow that individual citizen to then vote for state level offices—state governor, state attorney-general whatever else offices may be in that state. All the states guarantee that military—US Armed Forces—the right to vote a full ballot, because for the most part, the US Armed Forces do not have a choice as to the fact that they are outside of their home state. The states differ as to how full a ballot they will send to all the US citizens outside of the United States depending on how permanently they may be outside of the United States. However, all states must, by federal law, provide the citizen with at least the ballot for the federal offices.

**SEN. FLAVIER.** And the ballot accomplished is sent where?—to the embassy? For example, a US citizen in the Philippines, where is that sent?—to your Embassy here or direct to the United States?

MR. WIEDMANN. Yeah. The individual uses these forms to directly communicate with their local election official in their town or city or county. That individual local election will show, say, from a county in California would send that ballot directly to the home address of the individual.

in the Philippines. They would then turn around and vote the ballot and send it directly back.

SEN. FLAVIER. Thank you for that, because that's one of the points we're now discussing. The drift seems to be to use our embassies abroad to be the administrator of sort. Again, no decision has been made, but these are very useful information for us.

Thank you, Mr. Chairman.

MR. WIEDMANN. The forms that are prescribed by the Federal Law are posted free in US mails, so that if an individual wanted to send it and they are from a remote area in the Philippines, if you drop it in the Philippine mail, they would have to pay the Philippine postage and not to get it back to the state. However, if they are close to an embassy or consulate, they would be able to drop that form off at the embassy or consulate, because they will have the US mail facilities there and they will be posted free for them to mail back to the states.

THE CHAIRMAN. For example, Mr. Busa and Mr. Allegra, being based outside of the US mainland and would like to vote, they will fillup that form and mail it direct to the state. Is that how it goes?

MR. ALLEGRA. Yeah. That's right. I can give you a personal example. I'm from the State of Colorado, and every year or so, I make sure I continue to be registered and register for an absentee ballot...brhg

MR. ALLEGRA... absentee ballot. Now, most – and I can give you an example to what Mr. Wiedmann was saying about the difference between the federal and the state maybe offices. When I get a ballot in the state, when I get an absentee ballot sent to me like I did in 2000, it has my vote for president, for senate, for congress, for governor of the state, for my local state representatives all the way down to the local level. So, even sometimes I'm voting for county commissioners and school taxes and school, very local issues which I'm not particular into, particularly interested in, but by Colorado State law, it allows this form to be used for all issues that are on the ballot in that state during that year from the President of the United States and other federal offices all the way down to the very local tax or rather local issues. And if I don't wanna vote for those or I don't have any understanding about them, I don't have to. But at least I have an opportunity to vote for the offices I choose to vote for. And I think that's probably consistent among the states.

THE CHAIRMAN. How do you ensure that the ballot will reflect all those who are to be elected because it differs from state to state, but your ballot is one form? In other words, your ballot will not conform to the positions up for elections in the state, right? It's just one form for all.

MR. WIEDMANN. It is actually very different, a very large number of ballots that are sent out for any given election in the United States. Each county would have very different jurisdictions for, say, federal courts, for federal offices, for local courts, for local school boards, all of those jurisdictions will overlap and overlay. Therefore, they'll

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be agreed. And depending geographically where the individual's residence is in that state, they would get a different ballot. So, in any given county or jurisdiction, it could have a couple of dozen different ballots they would send out. Each voter will get the ballot correspond to the geographic location where they're located. It just made it in any given election in the United States. There are hundreds of thousands of different ballots.

For example, Los Angeles County, California would have several dozen ballot types because it's so large and spread out in different areas there. Not only that, but Los Angeles County is required to provide all their ballots in, I believe, nine or ten different languages.

THE CHAIRMAN. But how does this ballot come into the picture?

MR. WIEDMANN. This is a registration request form. This is a request for registration and...

THE CHAIRMAN. This is not the ballot?

MR. WIEDMANN. Correct.

**THE CHAIRMAN.** Request to be registered?

MR. WIEDMANN. Correct.

The request is a federal form, I mean that would be a THE CHAIRMAN. federal document?

MR. WIEDMANN. Yes, that is correct

THE CHAIRMAN. So, the request to be registered as an absentee voter is coursed through a federal form, but that federal form is forwarded to the state, and then the state responds with its state forms.

MR. WIEDMANN. State ballot.

THE CHAIRMAN. State document, state ballot. So, whoever receives – Mr. Allegra receives his form from Colorado the state ballot, and Mr. Busa, it is from wherever will also receive that. But they both use the same ballot, same form in terms of requesting to be registered?

MR. WIEDMANN. Correct, correct.

**SEN. BIAZON.** Are the absentee ballots the same as the ballots used in the States during elections?

MR. WIEDMANN. The ballot that the individual receives through the mail from their local county in their home state...

**SEN. BIAZON.** Is the same?

MR. WIEDMAN ... is the same that someone going to the polls will see when they walk into the voting booth.

SEN. BIAZON. Right.

MR. WIEDMANN. However, it can differ. In the State of Colorado.

**SEN. BIAZON.** In state to state?

MR. WIEDMANN. Well, the only difference maybe that some U.S. citizens, depending on their state, may only get a ballot with the federal offices. The state may say

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if the citizen is living overseas permanently, they would only send them the ballot from

federal offices.

SEN. BIAZON. Federal offices.

MR. WIEDMANN.But as I said, for the entire U.S. military and their family

members and for a lot of other U.S. citizens, from the State of Colorado or California,

they would get the full ballot. And yet, it is identical to that that they would get walking

into the voting booth.

SEN. BIAZON. Is the counting of the ballots cast for absentee voting and the

home-cast ballots, are they counted in the same manner through a machine?

MR. WIEDMANN. That also could be different depending on the state. As you

go to the poll on election day in the United States, there are dozens of different types of

paraphernalia that you may encounter. Sometimes, they have a skinning type form; other

times, they have just a paper ballot that they put into a box; others may have a more of an

electronic or computer-type system. When the ballots are sent out by mail if they are,

you know, for instance, the skinning type form usually, that absentee voter would have

exactly the same type ballot which could be put in the same machine to be counted as the

others. If the folks at the local precinct use a computer or something, then they would

have some other type of ballot, but if they have the same things voted, they would be

counted then on election day as well.

SEN. BIAZON. Thank you.

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THE CHAIRMAN. In terms of the timetable, you need some lead time to send

out the materials? Would there be periods within which this is required to be done?

MR. WIEDMANN. That is determined by the state. But for the most parts,

states mail out the ballots from the state approximately 30 to 45 days prior to election

day. So, that would allow the mailing time for the ballot to get to the individual citizen

who then turn around to vote and mail it back and the forms sent her, the request for

registration, majority of the states have approximately a 30-day deadline for registration

prior to an election so that the individual would have to mail the application which is the

same as if someone was at home to vote at the polls, they would have to register the vote

approximately 30 days prior to an election.

THE CHAIRMAN. Which means that the letters should have been sent much

earlier because the state should have received the filled up form 30 days prior to the

election?

MR. ALLEGRA. Yeah, correct. That's exactly right, and that's where we get a

lot of sometimes disgruntled American citizens overseas that two weeks before the

election in the United States, they all of a sudden decided they get patriotic and want to

vote. But then in most cases, it's too late unless they've registered or they can show that

they've registered before 30 days in advance of the election, it's too late to then register.

THE CHAIRMAN. That 30 days prior to the election wherein they're

registered, the state then sends out its ballots?

MR. ALLEGRA. Right.

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THE CHAIRMAN. And they may receive it 30 days later when election day comes or is it normally done -- How long before they send it out and how does this go because the ballots should be in on election day?

MR. WIEDMANN. The majority of the states do have a close-of-polls on election day requirement or deadline for the ballots from the state to be returned. That's correct. So, majority of the states will send out the absentee ballots approximately 30 to 45 days prior to election to ensure there's enough time although there are – as the people register by mail prior to that period is they put them on a list. So, as soon as the ballots are printed and ready to be mailed out, they'll send them out. If subsequently they receive a request and it comes in in time to register and to vote, they will send the ballot out as late as they can to that citizen who then can vote and return it, then it's the citizen – it's the only time that the citizen who maybe did not get this form and request about it early enough, to get it mailed then and in enough time.

THE CHAIRMAN. So, in terms of the time and motion – how do you call it – picture, you have a citizen writing, filling up that form, forwarding it to the State of Colorado maybe 60 days before the election? Fifty days before the election, the State receives the form, processes it, decides that this guy's legit, looks like he is, who he is he claims to be, 45 days before election, they send the document to him, he receives it 30 days before election, fills it up and then sends it back, and the state receives it maybe 15 days before election, but they count it on election day.

MR. WIEDMANN. That's correct. The States did not start counting the ballot until election day.

SEN. FLAVIER. May I follow that up with a little question, please? What would happen to ballots that arrive after the election day? How is that. . .

SEN. FLAVIER.....How is that treated?

MR. WIEDMANN. That would depend on the state, Your Honor. Few states that do allow for – specifically, for the overseas citizens and military members, because they understand about the transmission times of the mailing back and forth that do allow them to come in after election day. But the majority of states have that deadline of close to polls on election day. If a ballot came in after that point it would be too late. They would not be able to count the ballot.

SEN. FLAVIER. But this is a matter that the state decides to do and it is not legislated across the board.

MR. WIEDMANN. There is no federal legislation regarding when the ballots are due, that's correct.

SEN. FLAVIER. I see. Can you give us a rough estimate as to how many states require that they be received on the election day and others who make exception of those allowing counting a few days after, just for my education?

MR. WIEDMANN. I think there is about 15 or so states that allow the ballot to come in at some point after the election and majority or the rest of

them require a close to polls on election day. There's a couple of states that actually requires a day or two before the election as well, for that ballot to come in.

SEN. FLAVIER. To the best of your knowledge, what would be the estimated number of days allowance after this practice? This is important for us because we may have to put the team, you know, with the kind of snail postal service we have. But I think we should have an idea of how allowable a margin of post-election date would be tenable, would you have an idea?

MR. WIEDMANN. Well, what the state to do is, on the election day, they count the ballots and then it's a period usually a week, 10 days or so after the election where they also certify the election, where they double check the counting, double check the figures, ensure that all the ballots are in. Usually, those States that allow some sort of a late counting would have a day or two before that certification is complete so it maybe seven days, maybe.

In Florida, for example, they had a 10 day late counting that they would accept the ballots. What the States want to ensure in those cases is that the individual voter completed the ballot on or before election day. They don't want the voter listening to the news, to hear the outcome and say, "Oh!! My



candidate is losing" and then vote after the election day. So to ensure that, they go to a third party source usually the postal service to look at the post mark when the ballot was posted to find out when it was mailed. If it was mailed by election day and the postmark reflects that and they know the voter had voted about by that election day, and then they'll be able to count the ballot if it state allows that late counting but they would use that as a third party source to verify that it was out of the voters hands by election day.

SEN. FLAVIER. Mr. Chairman, I know this is not part of your experience nor your system but there is a growing interest in the system where, at least, for the Philippines and the law we are crafting to count this on-site. This seems to be the mood. In other words, if the overseas Filipino workers are in New York, that the counting will be done in New York, can you just comment on this in terms of your thoughts because we are not really practicing this?

MR. WIEDMANN. Yeah. As you know, the US government does not carry out the elections. We do not have polling sites at US embassies or consulates outside the United States. One of the main reasons is, as we described before the hundreds of thousands of different ballot types that would have to be on hand at any particular embassy, because of the fact that

the states send out the different ballots to individual citizens, the Federal government does not have a single ballot that could be in place with the candidates name to be in those places. I do – I'm not an expert as you said in that areas.

I'm aware that other countries, Russia, for instance, does a lot of polling at their embassies and consulates within the United States, you know, for Russian elections. But I'm not aware how smoothly that works, you know. Obviously, the individual citizens would have to physically present themselves at a location, be present to vote if they were unable to make it. I don't know what the stipulations are, I can't comment on it.

THE CHAIRMAN. The process of voting by mail, are there efforts to go into electronic mail, e-mail voting?

MR. WIEDMANN. We did, the Department of Defense, my office in the Department of Defense, did a pilot project in 2000 to look at the possibility of technically and security wise to see if there was something that could be done feasibly. We used what you call electronic certificates for computers, encryption and to ensure that individuals participating were able to guarantee, identify, you know, authenticate who those individuals were, that they knew, that they were communicating directly with their local office, that there wasn't

someone else coming in or hacking in and that kind of thing. We had about 100 individuals who participated in that project and what we did basically, was prove technically that it can be done. We are looking at continuing similar project for the 2004 election where we may have, for the citizens covered by Act...Overseas, US citizens and members of the U.S. military, a more widespread or broad use on a statewide basis in perhaps three or four states in the United States to allow all the citizens covered by the act in those States to do that.

The report. I do not have a copy of the report with me. However, our website does have a copy in PDF format of that report from the 2000 project which goes into much detail about the technical aspects and security and the encryption of details that were used. So, you're welcome to download that and the website – to place it or what do you want me to give it to you later? I think it's on the card I gave you.

THE CHAIRMAN. The wwwFVAP.NCR.gov.

MR. WEIDMANN. Yes. So you can also use without the NCR, FAVP just FAVP.gov. Well, it should also work if that one is not up at a certain time. But there is a copy of that report there and if you'd like to send the questions to us, then we will be happy to reply to you on that as well.

THE CHAIRMAN. Did the 100 people who participated in this pilot program, were they everywhere?

MR. WIEDMANN. They were spread geographically around the world. Yes, and they were both, military and US citizens who participated in that. And there was no requirement to have a special computer at an embassy or a military installation to do that. They could do that from any computer, you know, at their home or at a...

THE CHAIRMAN. Internet café.

MR. WIEDMANN. Internet café, right. That's right. Yes.

SEN. FLAVIER. I just like to go a little further but again, this is a matter of interest only because there is a proposal to include it in the bill and that refers to the campaigning. The mood is to prohibit any candidates from campaigning overseas and some people say that's good, some people say it's no good. Would that be something that you have an experience to share with us?

MR. WIEDMANN. I really don't think I'm in a position to comment on that. That will be dependent upon that, I guess the Philippine government to decide where a candidate can officially campaign or not campaign, I really wouldn't have a comment on that.

THE CHAIRMAN. I think the question of Senator Flavier if I may just elaborate on it is...

SEN. FLAVIER. Yes, please.

THE CHAIRMAN. ...he U.S. Federal government or the state governments do they allow campaigning in other countries, meaning, what forms of campaign activities are allowed if any, for absentee voters in the United States?

MR. WIEDMANN. I'm not aware of any prohibitions specifically against the U.S. candidate campaigning overseas. However, there maybe – if they're going to be campaigning on a particular U.S. embassy or compound or military installation there maybe prohibitions due to equal access out of the other candidates..../mhb

MR WIEDMAN. ... particular candidates.

MR. ALLEGRA. Yeah. Just to that, I'm not aware of -- it's possible but I'm not personally aware of any candidate, U.S. candidate, specifically targeting absentee voters with their message. But I am aware of many groups, politically affiliated groups like the Democrats abroad or the Republicans abroad, League of Women voters who really do have an interest in making sure U.S. voters in general are well informed. And they will publish through the internet or on the websites or in hard copy a wealth of information about the candidate's positions on issues that are important to the U.S. electorate. And that is – again from personal experience, I know there's no shortage of that kind of stuff in the events of an election from many, many sources.

THE CHAIRMAN. You have figures as to how many absentee voters are actually in U.S. elections now that would be at state level? Who would know that?

MR. WIEDMAN. Are you speaking of the absentee voters?

THE CHAIRMAN. Yes.

MR. WIEDMAN. Yeah, that would be at the state level, yes.

THE CHAIRMAN. But you would have information regarding how many forms you've sent out and how many – now, you wouldn't have that?

MR. WIEDMAN. We have information on total numbers of citizens who are outside the U.S. There's approximately 3.7 million U.S. citizens not affiliated with the U.S. government who are outside the U.S. and practically 100,000 U.S. government federal employees and with the military and their staff and dependents. Some of W

those folks would be in the U.S. but some of them are outside the U.S. There's almost two million of those individuals.

THE CHAIRMAN. 3.7 million not connected with the U.S. government, 2 million would be soldiers and their families, another 100,000 would be embassy personnel not in the military, civilian government employees. So, that's a total of well, roughly –

MR. WIEDMAN. Over six million.

THE CHAIRMAN. Over six million. And would you know how many of these avail of absentee voting? Any rough estimates?

MR. WIEDMAN. For the 2000 election, there are approximately 69 percent of the military and their staff and dependents who voted. In 2000, they were, I believe, in the 68 percentile of the total federal employees who voted. And in the 38 percentile total of the non-federal employed U.S. overseas citizens who voted.

THE CHAIRMAN. So, that would be again roughly more than a million military personnel and their families voted. More than 50,000 civilian government employees also voted. And something like close to a million or over a million of non-U.S. military personnel, non-government officials and employees --

MR. WIEDMAN. The numbers I gave you are statistically relevant although we don't normally extrapolate them to actual numbers. So, I would not definitely back those numbers up but we do a statistically viable sampling and survey to get those numbers.

THE CHAIRMAN. Which means, well, again, a lot of absentee ballots.  $\operatorname{\text{$\mathcal{V}$}}$ 

MR. WIEDMAN. Yes, compared to about 51 percent voting rate by the citizens inside the United States at the polls.

THE CHAIRMAN. So, the participation of absentee voters is much higher – MR. WIEDMAN. For some groups.

THE CHAIRMAN. They're more interested than those who are in the mainland.

MR.WIEDMAN. Well, perhaps because they are faraway and they wanna know what's going on and probably make – I can infer the interest of any specific voter.

MR. ALLEGRA. But that change a bit, Senator, from election to election, presidential elections in the U.S. I think traditionally, I have a higher percentage rate of voting than the non-presidential years. Isn't that true. If there is a particular candidate and particular issues that are at stake, I can't really comment on what we drive any particular voter to vote or not to vote. We don't base our success or non-success on the participation right where we base our success on is how well we were able to get the information that forms out the votes. But certainly, presidential elections have a lot more coverage in the media and what not. So, there's a lot of interest there. But if there's a particular race in one state whether it is U.S. Senate, for instance they are drawing a lot of attention, the rate there may be much higher than in another state perhaps where there's not as much attention for that race.

THE CHAIRMAN. Earlier, you mentioned about absentee voting in Florida during the 2000 elections. My memory – it escapes my memory at the moment but there were some controversies I think, regarding absentee voting during the 2000

elections. Because like you said, if I recall you correctly, Florida allows for voting even after or counting of ballots after election day. And because of the controversies surrounding that particular federal election, there was some focus on the ballots coming in from out of the country.

Can you just give us, again – I don't know if there was fraud there but it was like there was some controversy because they were thinking whether it would alter the elections I think or something to that effect.

MR. WIEDMAN. I'm not an expert on Florida elections in particular. However, the states, you know, ask the absentee voters ballots come through depending on the state rules and where those deadlines are. They make the local officials make the determination as to whether the postmark is legitimate or whether the postmark is in the right amount of time as to whether to count it or not. All states however, when an absentee ballot comes from U.S. citizens overseas or military member, will count that ballot as long as it is completed and sent in in a time like manner to meet the state deadline, the ballot would be counted.

Generally, the media would only report on anything regarding absentee ballots if it's a close election and it may change the outcome of the election. However, in that time that with the 10 days after the elections as the ballots are being certified and the election is being certified, all ballots are counted. The local elections usually pride themselves on having higher voter turnout. They have, you know, competitions and fun competitions themselves to see who can get a better turnout. So, they will have give the benefit of the doubt generally to voters.

THE CHAIRMAN. So, there was really no issue of – or there was no fraud, allegations of fraud. It was really just that it was coming down the wire, Florida was supposed to be the decisive state, there were absentee ballots that were supposed to come in and the question was whether or not the absentee ballots and the vote of the absentee voters would tilt the balance one way or the other. It was really more that than anything else.

MR. WIEDMAN. Correct. I'm not aware of any cases of fraud that were brought up in any election. It came down to the definition in the state law as to what ballot will count and what ballot would not count.

THE CHAIRMAN. Yeah, I remember that, 'no? Senator?

When you speak of – earlier during your presentation, you spoke of chamber of commerce, the U.S. embassy coordination. Is this in terms of disseminating information about the voting assistance program?

MR. WIEDMAN. Both information and the forms and materials, yes.

THE CHAIRMAN. So, the private institutions or private agencies or organizations play a crucial role in the dissemination of information and helping in the distribution of the ballots?

MR. WIEDMAN. That's not true. We correct with the American military, we have a much more formalized command structure, so we were able to use that structure to get from the top down to get the information and materials distributed. However, with the American citizens, they're spread far and wide so we really rely on the embassies, consulates and each other organizations of American citizens to get that information out.

THE CHAIRMAN. Just to again reiterate. As far as registration is concerned, it's really the state's call, right? They deny or accept, allow for registration on the basis of their own criteria and their own requirements and your office has nothing to do with that.

MR. WIEDMAN. That's correct.

THE CHAIRMAN. But, would you have any information about the process of who are denied and who aren't?

MR. WIEDMAN. In this book which we will provide a copy of to you, it's based here state by state compendium of the state laws as to when the deadlines are for registration and when the ballots are due in the states. So, you find that information in here. I believe that should help.

THE CHAIRMAN. Are you kind enough .../mhu

THE CHAIRMAN. ... Would you be kind enough to provide us?

MR. WIEDMANN. These are all yours, yes.

THE CHAIRMAN. Thank you.

Would you have other questions?

I do have -- yes, we would like to also touch on the issue of dual citizenship.

Mr. Allegra, earlier, before we begun this consultation meeting, we were talking about the policy of the United States regarding dual citizenship. And perhaps you can just give us -- or reiterate what you said earlier about how you view dual citizenship in the context of US laws.

MR\_ ALLEGRA\_ Sure. Under US law on policy, it's fairly simple. As far as policy goes, the United States does not either really encourage or discourage dual nationality. And that policy exists, primarily, because the law does not base acquisition of US citizenship at all upon any other citizenship or nationality that an individual may is to say that one can hold. That get citizenship based on a variety of means. Under our Constitution, birth in the United States; certainly, through a naturalization process; and also through transmission through one or both of their parents.

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Those processes establish a person as a US citizen if they're proven of -- if all the requirements are And if they are not met, the person is not a The fact -- whether they hold another US citizen. citizenship or not, does not ever come into play. It's not a factor, it's not at all part of the US law in making a determination of US citizenship. -- and frankly, when a person becomes or does become a US citizen, they are treated the same as citizens whether they derived that citizenship through naturalization, through birth, or through their parents. And for my section here, at the US Embassy, the hundred and twenty thousand US citizens, we estimate exist in the Philippines, have come to that US citizenship by many means. I mean. there are some that were born in the US: some. as a result of the parents who were born in the US and transmit their citizenship; others who have become naturalized in the United States and have returned possibly to the Philippines because they want to live here with their extended family. There are some children that are US citizens living here in the Philippines with parents who are not. terms of that though and especially considering our protection and welfare and interest in US citizens,

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it doesn't matter how people got their citizenship It could have been one of any of those at all. And the fact, whether or not they hold means. Philippine citizenship is really irrelevant to their status as US citizens or our efforts on their behalf as US citizens, frankly. The only time -- the only issue that really comes up before us is, if the US citizen wants to renounce his or her claim to US citizenship. And what I was mentioning earlier, over the years, that's become rather hard to do. It's become pretty difficult to do for US citizens. And the fact of them -- what is very clear is that the fact of a US citizen becoming a citizen of another nation does not, by operation of law, at all result in the renunciation of the US citizenship at So, I guess, in general, it's easy to say that there are precise ways to become a US citizen but once you are a US citizen, it's very difficult to have that citizenship removed. And just by the fact that someone may become a US citizen -- become a citizen of another country, is not sufficient, under US law, to renounce US citizenship. that's not only by statute, that's also by Supreme Court decision. And I'll be happy if your -- you or your committee or staff are interested to provide

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legal decisions from our court as well as statutes and other regulatory information on this. But in essence, we require -- US citizens can renounce their citizenship but it's not easy to do. Thev have to come to the embassy, they have to take an oath to renounce their US citizenship. We, as a consular officer, have to be convinced of their And even then, I think the decision to intent. renounce a citizenship is subject to challenge in federal courts of the United States and it may or may not be accepted. But there is a wealth. Senator, of information of legal decisions by our US Supreme Court, statutory and other material. And I'm happy to provide anyone interested in that. from our perspective now, at least in this century, in 2000, in 2001 or 2002, it's -- I can safely say that dual citizenship really does not become an issue under US law at all anymore.

SEN. BIAZON. Meaning -- Mr. Chairman. Meaning, that you do not have laws that would allow or grant possession of dual citizenship?

MR. ALLEGRA. We do not.

SEN. BIAZON. You do not.

MR. ALLEGRA. We have laws granting US citizenship and that's it.

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SEN. BIAZON. Yes, yes.

MR. BUSA. However, Senator. let me just mention that even though there's nothing -- there aren't any specific laws, there are a number Supreme Court decisions which we use as -- which we follow. And over the years, let's say, there are about five six Supreme orCourt decisions specifically addressing the issue of a loss citizenship and nationality.

MR. ALLEGRA. But they are not specifically on the issue of dual citizenship necessarily. It's just on renunciation of citizenship.

SEN. BIAZON. The difficulty that we are trying to grapple is the implication of granting, by law, dual citizenship. Meaning, we accept -- we will accept citizenship of a Filipino as Filipino citizen and then at the same time, officially, grant him the right to be a citizen of another country.

MR. ALLEGRA. I understand it's a complicated procedure, Senator.

SEN. BIAZON. Yes.

MR. ALLEGRA. And I would -- I really could not venture a comment on it. Although, I think in the history of the United States, our law was not so easy. And there was a time when our law was not so

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easy upon this issue. The Citizenship and Naturalization Laws have really changed over the decades and the centuries. And, at this point, it is fairly simple, it is fairly straightforward. But, again, I'd be happy to do some research -- some historical research and legal research -- and try to come up with some materials that might be helpful for you to study, as you debate the law here in the Philippines.

THE CHAIRMAN. We would appreciate your help in that respect, sir. Because -- well, just to make it of record, a lot of Filipino-Americans who have migrated, who have left the country for greener pastures. to speak, and have acquired SO citizenship, are very interested in this particular bill dual citizenship because on there are restrictions in terms of what aliens or non-Filipino citizens can do in terms of ownership of property, investments here in the country...

MR. ALLEGRA. Or voting.

THE CHAIRMAN. ... or voting, yes. So, can we have something like maybe three million -- two million to three million Filipino-Americans -- so that's two million, that's a big number. And your assistance in terms of the research will be -- will

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come in very handy in terms of addressing that particular sector of two million Filipinos. Filipino-Americans.

I think Senator Flavier has some questions.

SEN. FLAVIER. Mr. Chairman, I apologize this has been raised during my brief absence, but my question is a clarification. I have received letters from former Filipinos who have become US citizens and were involved in the Second World War saying that they got the impression they will not be allowed to enjoy dual citizenship because of an oath allegiance that they made prior to incorporated into the military service of the USA. My impression is that this would be a major problem because our Constitution is rather specific in saying that when there is oath of allegiance, the dual citizenship will not apply. Is this a fact that when they joined the military -- and again, I'll understand if you don't have the data -- that they made an oath of allegiance before they became -- absorbed to the US Military Service? I would appreciate a -- some form of factual information, please?

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MR. BUSA. As far as we know, before you join the US Military in this -- I think you are referring... /alicc

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MR. BUSA. ... you are referring to the veterans and before World War II, especially the ones in the Philippine scouts and the ones that were incorporated in the United States Far Eastern Forces, the USAFE Forces under General McArthur at that time. They had to have an oath of allegiance to the United States as far as I understand, but I cannot give you the exact facts on that, but that is true, before you could really fight under the US banner because, you know, those forces were led by Americans even though the majority of them were Filipinos fighting in the Philippines.

**SEN. FLAVIER.** Thank you. We would appreciate information so we can be guided in our crafting of the bill. Thank you.

THE CHAIRMAN. Well, I suppose this would be just an additional clarification.

There are no specific laws on dual citizenship. In other words, it's not an express provision of law. However, is it safe to say that it is implied that you actually have citizens of your country who carry or who are recognized also as... or you don't... how do you say this? It doesn't matter to you whether this particular US citizen has acquired citizenship of another nation whether by way of passport, you know, carrying a Filipino passport. As far as you're concerned, this person is a US citizen.

MR. ALLEGRA. That's correct. It doesn't matter. The only important issue for the United States is whether or not they are US citizen. And if they hold a passport of another country, it doesn't matter for any

benefits and anything that would inure to them as a US citizen, including the right to vote.

At the risk of getting a little esoteric on international law, the only practical place where it becomes an issue for US policy—and this, again, is not a legal issue, but it's a policy issue—is, if we, as American, as US government official, we have the responsibility to protect the welfare of Americans overseas. And as I've already said, under our law and our practice, an American is an American is an American. It doesn't matter if they happen to hold another passport. But under international law, if there is an American that gets into trouble in the country of his other nationality, then, let's say well. I don't want to use the Philippines as an example because I don't know your law—but if there is an American that gets into trouble, gets arrested and jailed in the country where he also holds another passport, under international law, our ability to protect and have consular access to him in jail may be limited. Because then, under international law, it's determined that he is in the country of the passport that he holds, he's got in trouble there, their interest in that person, that individual are deemed to be greater than the interest of the country that he happens to hold a passport that he is not in anymore.

Now, we, as US government, don't necessarily always accept that in practice. And for most countries around the world, we have a very good relationship that if they are American citizen, we still can do the normal protection and welfare, visits and consular access. But I would just raise that

as immediately an esoteric legal thing that does exist under international law. But as far as US law, as far as US practice, it just doesn't matter. If they are an American, we assert their interest on behalf of the United States for they're... if they're American citizens.

THE CHAIRMAN. Thank you.

SEN. BIAZON. Mr. Chairman.

THE CHAIRMAN. Senator Biazon.

**SEN. BIAZON.** Would you know of any country that would allow, by law, dual or multiple citizenship? Israel, for example. These are common reports.

MR. ALLEGRA. I think that... I don't know specifically of any country who, by law, recognizes that. But clearly, these days around the world, there are citizens of many countries hold dual passports.

SEN. BIAZON. Yes.

MR. ALLEGRA. And I think whether it's by law or practice or policy, it does exist.

SEN. BIAZON. Yes. Yes.

MR. ALLEGRA. It would be difficult these days, I think, for a country to, well, it's possible to be specific in a law about that since the practice changes. But clearly, the practice is there, whether it's by law or not, I don't know.

SEN. BIAZON. Thank you.

**SEN. FLAVIER.** It is peripheral, but it's.... Do you maintain a roster of American-Filipinos at the US Embassy?

MR. ALLEGRA. Well, we try to maintain a roster. We encourage Americans in the Philippines, as we do all around the world, to register with the US Embassy. That provides two purposes—one, it helps... if they need to request the renewal of their passport or their citizenship records, we have those on file at the embassy.

And second, in case of a disaster or some kind of emergency, we have the ability to know who is here, which American citizens are here, and that becomes important, not only for us to help, you know, protect their interest in the Philippines, if they're in trouble or need assistance, but also to contact people back in the United States—their family members or others that may be concerned about their welfare. That happened. I might just mention, that happens a lot here. We had several American citizens, not a lot, but a handful of American citizens on that ferry that just caught fire and sank over Quezon Province, and one of our early interests in my section was to find out were there Americans aboard, who are they, where do they live, who can we contact, and how do we help them, either get medical treatment or take care of the disposition of remains for those who have perished. So, it happens all the time. And I would say, Senator, that our list is certainly far from perfect, but it's one of our goals that we do try to do outreaches to encourage American

citizens to register with us, especially those that are living here permanently, although they are interested in those, temporarily, as well.

**SEN. FLAVIER.** With your office, we have to write, too, in case we want to verify whether a certain person is a US... an American-Filipino of American citizenship?

MR. ALLEGRA. Yeah.

**SEN. FLAVIER.** It is your office we have to...?

MR. ALLEGRA. Yeah. It's our office, but I have to tell you one—another US law is called the "Privacy Act", and all Americans have the right to privacy. So, we can protect Americans even to their own families, if they're.... Sometimes we get calls from people in the United States saying "I'm looking for my son", "I'm looking for my ex-husband", whatever it is, "Please tell us where he is, and please tell us how to get in touch with them", well, we can't do that, unless they tell us that we can do that. So, one of the first things we do when we do meet these people, we ask them, we say, "Look, so and so was looking... they want to know about you. They said that they've lost touch with you. Let us contact them on your behalf." If they say "no", we have to respect their wishes. Many people in jail around the world don't want their parents or their families to know about it, so sometimes, we have.... It's not that easy. Sometimes we look after their interest, but we don't have the ability to rely on some of their family relationships back in the US for support.

But specific answer, yes, Senator, you can request in our office, but sometimes we're constrained by US law to provide detailed answers about citizenship because of the Privacy Act.

**SEN. FLAVIER.** Even Just to find out if he's American citizen or not?

MR. ALLEGRA. Yes, Senator.

**SEN. FLAVIER.** Even if I tell you, I'm a corporal, the Privacy will not be allowed?

MR. ALLEGRA. Yeah.

SEN. FLAVIER. I'm kidding. (Laughter)

MR. BUSA. This really came up a lot during the recent Philippine elections where we got request that certain candidates were US citizens and they would be barred from running, and we always got this request from their opponents. And my answer is always the same, "We cannot divulge any information of that sort".

**SEN. BIAZON.** What if he is not a US citizen, can you divulge the information?

MR. ALLEGRA. Well, I think if he is not a US citizen, they don't have a right to privacy under US law.

**SEN. BIAZON.** Exactly what I'm asking.

MR. ALLEGRA. But it's hard to prove a negative from.... I mean, we have certain records in our embassy for American citizens in the

Philippines, whether... we don't have records to show whether anybody in the whole world is not a US citizen. I mean, that's....

MR. BUSA. Just because we don't have it on record that he is US citizen doesn't mean that he is not a US citizen.

SEN. BIAZON. All right.

THE CHAIRMAN. One last question. Mr. Allegra says there are 120,000 perhaps US citizens in the Philippines from north down to south—north to south, east to west—hypothetical situation...brhg

THE CHAIRMAN. . . hypothetical situation, out of those 120,000, you have people who are actually voting here, participating in the election here, are holding office, public office here. Does that matter to you? Are you — would you consider that as a disqualification from becoming a U.S. citizen or again, we go back to the earlier pronouncement that as long as you are U.S. citizen, it doesn't matter what you choose to do.

MR. ALLEGRA. That's right. And it's very difficult to renounce citizenship, a U.S. citizenship once you have acquired it. And that, Senator, is part of the materials that I will send. I mean the laws really have changed on renunciation. And the mere fact of holding another office somewhere or participating in political advance in another country, that is not sufficient under U.S. laws and Supreme Court decision.

MR. BUSA. You could tear up your passport on television and say you're not a U.S. citizen, and you'd still be a U.S. citizen.

THE CHAIRMAN. I watched that on television. I have no more questions. If there are no more questions, we would like to thank our resource persons again, our deputy director of the Federal Voting Assistance Program, Mr. Wiedmann; Mr. Allegra, First Secretary and Consul of U.S. Embassy; Sonny Busa, Consul; and Vice Consul Zedra Eaton of the U.S. Embassy for your time. The information that you have provided is very important. It will truly help us in our formulation of policy, and we look forward to the offer of assistance in terms of research and materials, and we look also forward to

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coordinating efforts in terms of more information that we may obtain so that we may again craft law that would be relevant and effective.

Thank you very much, gentlemen and lady, and a pleasant good afternoon. The consultation meeting is adjourned.

(The meeting was adjourned at 2:55 p.m.)