

7 FAM 1120 ACQUISITION OF U.S. NATIONALITY IN U.S. TERRITORIES AND POSSESSIONS

7 FAM 1121 HISTORICAL BACKGROUND

7 FAM 1121.1 How Territories and Possessions Were Acquired

(TL:CON-66; 10-10-96)

a. In the late 19th and early 20th centuries, U.S. sovereignty was extended to overseas territories. These territories (unlike those of the western United States, Alaska, and Hawaii) were not considered to be a part of the United States, and the Constitution was held not to be fully applicable to them.

b. The territories came under U.S. control in a number of ways:

(1) Puerto Rico, Guam, and the Philippines. After the Spanish-American War, Spain ceded Puerto Rico, Guam, and the Philippines to the United States by the Treaty of Paris of 1899 (30 Stat. 1754) ("Treaty of Paris"). The treaty came into force in April 11, 1899. *The Philippines ceased being a U.S. territory upon its independence on July 4, 1946.*

(2) American Samoa. In a Tripartite Convention (31 Stat. 1878) ratified on February 16, 1900, Great Britain and Germany *ceded American Samoa to the United States.*

(3) Panama Canal Zone. The Republic of Panama, by a Convention that became effective on February 26, 1904, granted the United States sovereignty over an area of about five miles on either side of a canal that was to be built across the Isthmus of Panama to connect the Atlantic and Pacific Oceans. *U.S. sovereignty over the Panama Canal Zone ended on October 1, 1979 in accordance with the Panama Canal Treaty (TIAS 10030).*

(4) Virgin Islands of the United States. The Virgin Islands of the United States, formerly the Danish West Indies, were purchased from Denmark pursuant to a Convention ratified on January 17, 1917.

(5) Swains Island. On March 4, 1925, by joint resolution, Congress proclaimed American sovereignty over Swains Island, which had been the private possession of an American family for about 50 years, and made it part of American Samoa.

(6) Northern Mariana Islands. *These islands, which were part of a U.N. Trusteeship Territory since 1947, became a territory of the United States on November 3, 1986, when The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub.L. 94-241. 90 Stat. 263) ("Covenant") of March 24, 1976, entered fully into force. (All the islands formerly under the Trusteeship, which was known as the Trust Territory of the Pacific Islands (TTPI), have assumed new political status and the TTPI no longer exists [see 7 FAM 1126 and 7 FAM 1127].)*

c. Treaties, conventions, and proclamations concerning these areas provided for the nationality or citizenship of certain of the inhabitants, but none of the provisions was very specific. Questions arose almost immediately about the status and rights of the inhabitants and the relationship of the newly acquired territories to the United States.

7 FAM 1121.2 Applicability of the Constitution and Early Court Cases

7 FAM 1121.2-1 Definition of Terms

(TL:CON-66; 10-10-96)

a. *Territory*

A "territory" is an area over which the United States exercises sovereignty. The term is so used in Article IV, Section 3 of the United States Constitution which provides that Congress shall have the "power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

b. *Incorporated Territory*

The territories to which the Constitution *is fully applicable* are called "*incorporated territories.*" It has been held that persons born in *these territories* on or after the date they became part of the United States could claim U.S. citizenship under the 14th Amendment. Section 1891, Rev. Stat., stated that:

The Constitution...shall have the same force and effect within all organized Territories and in every Territory hereafter organized as elsewhere in the United States.

c. *Unincorporated Territory or Outlying Possession*

An "unincorporated territory" or "outlying possession" is an area over which the Constitution has not been expressly and fully extended by the Congress within the meaning of Article IV, Section 3 of the United States Constitution.

d. *Commonwealth*

The term "Commonwealth" does not describe or provide for any specific political status or relationship. It has, for example, been applied to both states and territories. When used in connection with areas under U.S. sovereignty that are not states, the term broadly describes an area that is self-governing under a constitution of its adoption and whose right of self-government will not be unilaterally withdrawn by Congress.

NOTE: For additional definitions relating to this chapter, see 7 FAM 1113 .

7 FAM 1121.2-2 Court Decisions

(TL:CON-66; 10-10-96)

a. In the first decade of the 20th century, in a series of court cases often called the "Insular Cases", the Supreme Court developed the rationale that, absent specific Congressional legislation or treaty provisions—

- (1) The Constitution has only limited applicability to U.S. territories; and

(2) Inhabitants of territories acquired by the United States acquire U.S. nationality-but not U.S. citizenship.

b. The Court ruled *that*:

(1) Alaska and Hawaii were incorporated territories (Rasmussen v. U.S., 197 U.S. 516 (1905); Hawaii v. Mankichi, 190 U.S. 197 (1903), but

(2) Puerto Rico and the Philippines, although they had become U.S. territory, were not part of the United States because Congress had not yet enacted laws incorporating them into the United States or making the Constitution fully applicable to them (Downes v. Bidwell, 182 U.S. 244 (1901); Dorr v. U.S., 195 U.S. 138 (1904)).

c. In Downes, the Court stated that:

The liberality of Congress in legislating the Constitution into all our contiguous territory has undoubtedly fostered the impression that it went there by its own force, but there is nothing in the Constitution itself, and little in the interpretation put upon it, to confirm that impression.

d. In Gonzales v. Williams, 192 U.S. 1 (1904), the Supreme Court referred to its earlier finding that:

...the nationality of the inhabitants of territory acquired by conquest or cession becomes that of the government under whose dominion they pass, subject to the right of election on their part to retain their former nationality by removal or otherwise, as may be provided... "(Boyd v. Nebraska ex rel. Thayer, 143 U.S. 135 (1892)).

The Court held that citizens of Puerto Rico were not aliens even though they had not been granted full U.S. citizenship by act of Congress.

7 FAM 1121.3 Status of Inhabitants of Territories, Absent Laws Defining Status

(TL:CON-66; 10-10-96)

a. Eventually, Congress enacted laws defining the relationship of the unincorporated overseas territories to the United States and the citizenship and nationality status of their inhabitants [see 7 FAM 1122 to 1127].

b. Before the Nationality Act of 1940 and absent laws specifying how U.S. citizenship could be acquired by persons born in a particular territory, children born in a U.S. possession could acquire U.S. citizenship under the laws governing birth abroad if the citizen parent was qualified to transmit U.S. citizenship.

c. A child born in an outlying possession before January 13, 1941, whose father (or mother if the child was born out of wedlock) was a noncitizen U.S. national, was held to have acquired the parent's status, and a child born there to alien parents was held not to have acquired U.S. nationality.

7 FAM 1121.4 Laws Governing Status of Persons Born in Outlying Possessions

(TL:CON-66; 10-10-96)

Persons born in the outlying possessions may have a claim to U.S. citizenship or U.S. nationality. If an applicant has a potential claim to U.S. citizenship, that claim must be properly adjudicated and a determination of noncitizenship made before the applicant may be documented as a noncitizen national. Some statutes and treaties, such as Section 302 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands, have specified means by which persons who automatically acquired U.S. citizenship could instead opt to be noncitizen nationals. In the absence of such a provision, a person who has acquired U.S. citizenship may not choose to be a noncitizen national rather than a citizen.

7 FAM 1121.4-1 Under the Nationality Act of 1940 (NA)

(TL:CON-66; 10-10-96)

a. *Under the NA (effective January 13, 1941 to December 24, 1952):*

(1) Puerto Rico and the U.S. Virgin Islands came within the definition of "United States" for nationality purposes, but they were not made incorporated territories.

(2) Other territories under U.S. jurisdiction at that time, except the Canal Zone, were held to be outlying possessions of the United States.

b. Section 201(e) NA stated how U.S. citizenship could be acquired by birth in outlying possessions.

SEC 201. The following shall be nationals and citizens of the United States at birth:

(e) A person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of the outlying possessions prior to the birth of such person;

c. Sections 204(a) and (c) NA stated how noncitizen U.S. nationality could be acquired by birth in an outlying possession:

SEC 204. Unless otherwise provided in Section 201, the following shall be nationals, but not citizens, of the United States at birth:

(a) A person born in an outlying possession of the United States of parents one of whom is a national, but not a citizen, of the United States;

(c) A child of unknown parentage found in an outlying possession of the United States, until shown not to have been born in such outlying possession.

d. *Section 205 NA made Sections 201(e) and 204(a) applicable to children born out of wedlock under certain conditions.*

SEC 205. The provisions of Section 201, subsections (c), (d), (e), and (g), and Section 204, subsections (a) and (b), hereof apply, as of the date of birth, to a child born out of wedlock, provided the paternity is established during minority, by legitimation, or adjudication of a competent court.

In the absence of such legitimation or adjudication, the child, whether born before or after the effective date of this Act, if the mother had the nationality of the United States at the time of the child's birth, and had previously resided in the United States or one of its outlying possessions, shall be held to have acquired at birth her nationality status.

7 FAM 1121.4-2 Under the Immigration and Nationality Act of 1952 (INA)

(TL:CON-66; 10-10-96)

a. Under the INA (effective December 24, 1952 to present), the definition of-

(1) "United States," for nationality purposes, was expanded to add Guam; and, effective November 3, 1986, the Commonwealth of the Northern Mariana Islands (in addition to Puerto Rico and the Virgin Islands of the United States). Persons born in these territories on or after December 24, 1952 acquire U.S. citizenship at birth on the same terms as persons born in other parts of the United States.

(2) "Outlying possessions of the United States" was restricted to American Samoa and Swains Island.

b. Section 301(e) INA (formerly 301(a)(5)) stated how U.S. citizenship could be acquired by birth in outlying possessions.

SEC 301. The following shall be nationals and citizens of the United States at birth:

(e) *a person born in an outlying possession of the United States of parents, one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;*

c. *Section 309 INA made Section 301(e) applicable to children born out of wedlock under certain conditions [see 7 FAM 1133].*

d. Sections 308(1) and (3) INA provide for acquisition of noncitizen U.S. nationality by birth in an outlying possession.

SEC 308. Unless otherwise provided in Section 301 of this title, the following shall be nationals, but not citizens of the United States at birth.

(1) *A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;*

(3) *A person of unknown parentage found in an outlying possession of the United States while under the age of 5 years, until shown, prior to his attaining the age of 21 years, not to have been born in such outlying possession;*

7 FAM 1121.4-3 Status of Inhabitants of Territories Not Mentioned in the Immigration and Nationality Act(INA)

(TL:CON-66; 10-10-96)

The United States exercises sovereignty over a few territories besides those mentioned above. Under international law and Supreme Court dicta, inhabitants of those territories (Midway, Wake, *Johnston*, and other islands) would be considered noncitizen U.S. nationals; however, because the INA defines "outlying possessions of the United States" as only American Samoa and Swains Island, there is no current law relating to *the nationality of the inhabitants of those territories or persons born there who have not acquired U.S. nationality by other means.*

7 FAM 1122 PUERTO RICO

7 FAM 1122.1 Current Law

(TL:CON-66; 10-10-96)

a. Puerto Rico comes within the definition of "United States" given in Section 101(a)(38) INA. A person born *in Puerto Rico* acquires U.S. citizenship in the same way as one born in any of the 50 States. Section 301(a) INA (8 U.S.C. 1401(a)) *provides*:

SEC 301. The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof.

b. Section 302, INA (8 U.S.C. 1402) applies specifically to persons born in Puerto Rico on or after April 11, 1899:

SEC 302. All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

7 FAM 1122.2 Status Before December 24, 1952

7 FAM 1122.2-1 Status of Inhabitants of Puerto Rico After April 11, 1899, Before March 2, 1917

(TL:CON-66; 10-10-96)

a. *Treaty of Paris of 1899*

(1) Sovereignty over Puerto Rico was ceded by Spain to the United States by the Treaty of Paris of 1899 (30 Stat. 1754), *following the Spanish-American War*.

(2) *Referring to the Iberian Peninsula*, Article IX of the treaty, states, *in part*, that Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom ... In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within one year from the date of exchange of ratifications of this treaty (April 11, 1899), a declaration of their decision to preserve such allegiance, in default of which declaration they shall be held to have adopted the nationality of the territory in which they may reside. The civil rights and political status of the native inhabitants of the territory hereby ceded to the United States shall be determined by the Congress.

(3) The Governments of Spain and the United States agreed that:

(a) Only the Spanish subjects who had been born in the Spanish Peninsula could opt not to acquire U.S. nationality (*not citizenship*);

(b) Spanish subjects born in Puerto Rico had no such right. If they were residents of Puerto Rico, they became U.S. nationals automatically; *and*

(c) A Spanish-born male could elect Spanish nationality on behalf of his Spanish-born wife and children but not on behalf of a wife or child born in Puerto Rico.

(4) *The Department has a list of the Spaniards in Puerto Rico who made Article IX declarations to retain Spanish nationality. Questions about whether a particular person made a declaration should be referred by telegram to the Department (CA/OCS).*

(5) *The status of persons who were not Spanish-subject inhabitants of Puerto Rico on April 11, 1899, was not affected by the treaty.*

b. *Act of April 12, 1900*

(1) After the year during which a declaration could be made to preserve Spanish nationality, Congress quickly took steps to define the status of the inhabitants of Puerto Rico. Section 7 of the Act of April 12, 1900 (31 Stat. 77) stated:

That all inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in Puerto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Puerto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April, nineteen hundred, in accordance with the provisions of the treaty....

Thus, a Spanish subject who resided in Puerto Rico on April 11, 1899, and continued to reside there until April 12, 1900, acquired Puerto Rican citizenship and noncitizen U.S. nationality, unless that person was born in the Spanish peninsula and had declared an intention to keep Spanish nationality.

(2) In 1902, in determining that "American artist" as used in the U.S. Customs regulations applied to a native of Puerto Rico who was a Spanish subject on April 11, 1899, but who on that day and on April 12, 1900, was residing temporarily in France pursuing the profession of artist, the Attorney General indicated that a person need not be physically present in Puerto Rico to benefit from the treaty and the Act of April 12, 1900. However, a Spanish citizen in Puerto Rico who was not residing there permanently would not have acquired U.S. nationality or Puerto Rican citizenship (24 Op Atty. Gen. 40). It was held that residence was a legal matter to be determined by the facts in each case.

(3) Generally, "residence" was taken to mean a permanent dwelling place, or domicile, to which a person, when absent, intended to return. In determining whether a person's residence in Puerto Rico could continue during a stay abroad, the Department examined the nature of the absence (prolonged and permanent or temporary due to employment, schooling, and so forth), evidence of permanent ties to Puerto Rico (such as ownership of property, payment of taxes, and/or presence of family), and the possible existence of a fixed home elsewhere.

7 FAM 1122.2-2 Status Acquired by Birth in Puerto Rico After Annexation but Before March 2, 1917

(TL:CON-66; 10-10-96)

a. A child born in Puerto Rico after April 11, 1900, and before March 2, 1917, acquired Puerto Rican citizenship and noncitizen U.S. nationality if one of its parents was a Puerto Rican citizen under Section 7 of the Act of April 12, 1900 [see 7 FAM 1122.2-1 b(1)].

b. If the child was born out of wedlock to a Puerto Rican father and an alien mother, legitimation was necessary before the child acquired the father's status. A child who acquired Puerto Rican citizenship through a parent could benefit from the Act of March 2, 1917 [see 7 FAM 1122.2-3].

c. A child born in Puerto Rico to alien parents did not acquire U.S. nationality or Puerto Rican citizenship at birth. Aliens born in Puerto Rico could acquire citizenship by naturalization in the usual fashion or by taking the steps required by the Act of March 2, 1917, or the Act of March 4, 1927 (described in 7 FAM 1122.2-3(a)(5), or by meeting the conditions specified by the Act of June 27, 1934 [see 7 FAM 1122.2-4 (b)])

7 FAM 1122.2-3 U.S. Citizenship Granted to Citizens of Puerto Rico and Certain Natives of Puerto Rico

(TL:CON-66; 10-10-96)

a. Act of March 2, 1917

(1) The Act of March 2, 1917 (39 Stat. 953) granted U.S. citizenship as of that date to all citizens of Puerto Rico and to certain natives of Puerto Rico who had been absent from Puerto Rico on April 11, 1899, but had returned *to reside permanently*. Section 5 of the Act provided:

That all citizens of Puerto Rico, as defined by section seven of the Act of April twelfth, nineteen hundred ... and all natives of Puerto Rico, who were temporarily absent from that island on April eleventh, eighteen hundred and ninety-nine, and have since returned and are permanently residing in that island, and are not citizens of any foreign country, are hereby declared, and shall be deemed and held to be, citizens of the United States: Provided, That any person hereinbefore described may retain his present political status by making a declaration, under oath, of his decision to do so within six months of the taking effect of this Act before the district court in the district in which he resides...

(2) The following persons who did not make the declaration mentioned in Section 5 became U.S. citizens as of March 2, 1917:

(a) All citizens of Puerto Rico regardless of their place of residence on March 2, 1917.

(b) All natives of Puerto Rico who were not citizens of any foreign country and who were absent from Puerto Rico when the United States acquired it but had returned to Puerto Rico and were residing there on March 17, 1917.

(3) In addition, alien women who were married to Puerto Rican citizens acquired U.S. citizenship automatically upon their husbands' acquisition of U.S. citizenship pursuant to Section 5, unless they were ineligible for naturalization.

(4) The opportunity to decline U.S. citizenship was included in Section 5 in recognition of the Puerto Rican nationalism of many Puerto Ricans. The Act of March 4, 1927, (44 Stat. 1418) allowed a person to repudiate such a declaration within the year following the date of that Act and thereby to acquire U.S. citizenship. Section 322 NA permitted persons who had declared their intention not to become U.S. citizens under the Act of March 2, 1917, to acquire U.S. citizenship by making a declaration before the U.S. District Court of Puerto Rico at any time.

(5) Other provisions of Section 5 of the Act of March 2, 1917, not quoted in 7 FAM 1122.2-2, permitted permanent residents of Puerto Rico who had been born there to alien parents to acquire U.S. citizenship by declaring allegiance before the U.S. District Court for Puerto Rico within 6 months after March 2, 1917, or within 1 year of reaching age 21, if the person was still a minor on March 2, 1917. The Act of March 4, 1927, amended Section 5 to provide that qualified persons who had not taken the opportunity to become U.S. citizens by making such a declaration had another chance to do so before March 4, 1928.

7 FAM 1122.2-4 U.S. Citizenship of Persons Born in Puerto Rico On or After March 2, 1917, and Before January 13, 1941

(TL:CON-66; 10-10-96)

a. The Act of March 2, 1917, as originally enacted, did not make any provisions for acquiring U.S. citizenship by birth in Puerto Rico.

b. The first law specifically relating to the acquisition of U.S. citizenship by birth in Puerto Rico was the Act of June 27, 1934 (48 Stat. 1245), which amended the Act of March 2, 1917, and stated, *in Section 5b*, that:

All persons born in Puerto Rico on or after April 11, 1899 (whether before or after the effective date of this Act) and not citizens, subjects, or nationals of any foreign power, are hereby declared to be citizens of the United States: Provided, That this Act shall not be construed as depriving any person, native of Puerto Rico, of his or her American citizenship heretofore otherwise lawfully acquired by such person; or to extend such citizenship to persons who shall have renounced or lost it under the treaties and/or laws of the United States or who are now residing permanently abroad and are citizens or subjects of a foreign country.....

c. Under this Act, persons born in Puerto Rico after April 10, 1899, who were not U.S. citizens on June 27, 1934, acquired U.S. citizenship on that date unless they:

- (1) Had acquired a foreign nationality at birth;
- (2) Had in some way lost previously acquired U.S. citizenship before June 27, 1934; or
- (3) Were on that date foreign citizens residing abroad.

d. Under the same Act, persons born in Puerto Rico on or after June 27, 1934, but before January 13, 1941, became U.S. citizens at birth, unless they acquired a foreign nationality at birth through a parent.

e. The Act of June 27, 1934, was intended to confer citizenship only on persons born in Puerto Rico who would otherwise be stateless; thus, acquisition of a foreign nationality in any manner, including by automatic operation of foreign law, would keep a person born in Puerto Rico from benefitting from the Act of June 27, 1934.

f. Absent other laws conferring citizenship, a person born in Puerto Rico to two U.S. citizen parents could acquire U.S. citizenship under either the original or the amended version of Section 1993, Rev Stat. [see 7 FAM 1135]. Such a person who met the conditions specified in the 1934 amendment of the Act of March 2, 1917, or Section 202 NA, was not obliged to comply with applicable retention requirements.

g. Persons born in Puerto Rico to aliens from March 2, 1917 to January 13, 1941 acquired no claim to U.S. citizenship unless they:

- (1) Met the conditions of the 1934 amendment to the Act of March 2, 1917;
- (2) Were residing in the United States on January 13, 1941, when the Nationality Act of 1940 went into effect;
- (3) Made a declaration before the District Court for Puerto Rico upon reaching age 21 or within *one* year thereafter; or
- (4) Were naturalized *as prescribed by U.S. law.*

7 FAM 1122.2-5 Effect of the Nationality Act of 1940 on Persons Born in Puerto Rico

(TL:CON-66; 10-10-96)

- a. The Nationality Act of 1940, effective January 13, 1941, provided *that*:
SEC 202. All persons born in Puerto Rico on or after April 11, 1899, subject to the jurisdiction of the United States, residing on the effective date of this Act in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States.
- b. To benefit from Section 202, a person did not have to be in Puerto Rico or other U.S. territory on January 13, 1941, as long as the person's residence there or in other U.S. territory continued. In Puig Jimenez v. Glover, 255 F.2d 54 (1st Cir., 1958), it was held that a woman born in Puerto Rico in 1922 to Spanish permanent residents of Puerto Rico, who accompanied her parents on a visit to Spain in 1936 and was unable to return to the United States until July 14, 1941, because of the Spanish Civil War, could still be considered a resident of Puerto Rico within the meaning of Section 202, NA and had acquired U.S. citizenship.
- c. Puerto Rico came within the 1940 Act's definition of "United States." Persons born there on or after January 13, 1941, acquired U.S. citizenship on the same terms as persons born in other parts of the United States. The current laws are quoted in 7 FAM 1122.1 .

7 FAM 1122.3 Status Acquired By Birth Abroad to Puerto Rican U.S. Nationals

(TL:CON-66; 10-10-96)

- a. Section 7 of the Act of April 12, 1900 provided that a child born any time after April 11, 1899, in any place to a person who became a Puerto Rican citizen and a noncitizen U.S. national pursuant to the Treaty of Peace with Spain and the Act of April 12, 1900, acquired the Puerto Rican citizen parent's status at birth.
- b. *To acquire the father's status a child born out of wedlock to a Puerto Rican father and an alien mother had to be legitimated.*
- c. A child who acquired Puerto Rican citizenship by birth abroad to a Puerto Rican parent was entitled to U.S. citizenship automatically under the Act of March 2, 1917 [quoted in 7 FAM 1122.2-3].

7 FAM 1123 VIRGIN ISLANDS (U.S.)

7 FAM 1123.1 Current Law

(TL:CON-66; 10-10-96)

a. The Virgin Islands of the United States come within the definition of "United States" given in Section 101(a)(38) INA. A person born there now acquires U.S. citizenship in the same way as one born in any of the 50 States. Section 301(a) INA applies.

b. Section 306 INA (8 U.S.C. 1406) pertains specifically to the Virgin Islands:

SEC 306. (a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

b. All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

7 FAM 1123.2 Nationality Status Before December 24, 1952

7 FAM 1123.2-1 Status of Inhabitants After Transfer to U.S. Sovereignty

(TL:CON-66; 10-10-96)

a. The Virgin Islands of the United States, formerly the Danish West Indies, were purchased from Denmark on August 4, 1916. The convention making effective such purchase was ratified and came into force on January 17, 1917.

b. Article 6 of the convention states that:

Danish citizens ... who remain in the islands may preserve their citizenship in Denmark by making before a court of record, within one year from the date of the exchange of ratifications in this convention, a declaration of their decision to preserve such citizenship; in default of which declaration they shall be held to have renounced it, and to have accepted citizenship in the United States; for children under the age of eighteen years the declaration may be made by their parents or guardians. Such election of Danish citizenship shall however not, after the lapse of the said term of one year, be a bar to their renunciation of their preserved Danish citizenship and their election of citizenship in the United States and admission to the nationality thereof on the same terms as may be provided according to the laws of the United States, for other inhabitants of the islands.

The civil rights and the political status of the inhabitants of the islands shall be determined by Congress, subject to the stipulations contained in the present Convention.

c. Even though the convention referred to "citizenship in the United States" rather than U.S. nationality, it was administratively held that, consistent with the rulings of the Supreme Court in the "Insular Cases" on the status of inhabitants of territories acquired by treaty [see 7 FAM 1121.2-2 a], Danish citizens residing in the U.S. Virgin Islands on January 17, 1917, who did not elect to preserve their Danish citizenship became noncitizen U.S. nationals (3 Hackworth, Digest of International Law 147; 38 Op Atty. Gen. 525 (1936); 3 I. & N. 870 (1950); 6 I. & N. 226 (1954)).

d. Temporary absence from the Virgin Islands at the time of cession did not preclude acquisition of U.S. nationality if the person was otherwise qualified. For instance:

(1) The Department construed "residence" to mean a permanent dwelling place to which the person, when absent, intended to return.

(2) In determining whether someone could be considered an inhabitant of the islands within the meaning of the treaty, the Department required the person to provide proof of being a bona fide resident of the islands before annexation and of having had a definite intention to return.

(3) The Department considered such factors as the temporary nature of the absence (schooling, business trip, and so forth); evidence of a permanent connection to the islands (such as ownership of property, payment of taxes, and/or the presence of family in the islands), and the lack of fixed abode elsewhere.

e. The nationality of the non-Danish residents of the Virgin Islands was not affected by the convention.

f. The Acts of February 25, 1927 (44 Stat. 1234) and June 28, 1932 (47 Stat. 336) granted U.S. citizenship to Virgin Island natives born prior to annexation if they met certain criteria, now codified in Section 306, INA [quoted in 7 FAM 1123.1 b].

7 FAM 1123.2-2. Status Acquired by Birth in the Islands After Annexation but Before February 25, 1927

(TL:CON-66; 10-10-96)

- a. After annexation and before February 25, 1927 persons born to two U.S. nationals in the Virgin Islands acquired noncitizen U.S. nationality.
- b. A child born there to two aliens did not acquire U.S. nationality at birth.
- c. The status of persons born there, subject to U.S. jurisdiction, on or after January 17, 1917, was altered by the Act of February 25, 1927 [quoted in 7 FAM 1123.2-3].

7 FAM 1123.2-3 Laws Granting U.S. Citizenship to Persons Born in the Virgin Islands

(TL:CON-66; 10-10-96)

- a. The first law to govern acquisition of U.S. citizenship by birth in the Virgin Islands was the Act of February 25, 1927 (44 Stat. 1234), which became effective from the date of enactment.
- b. Section 3 of that law stated that:

All persons born in the Virgin Islands on or after January 17, 1917 (whether before or after the effective date of this Act), and subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States.
- c. The Virgin Islands came within the definition of "United States" given in the Nationality Act of 1940, and Section 201(a) NA applied to persons born in the Virgin islands. For the current law, see 7 FAM 1123.1b .

7 FAM 1123. 2-4 Status Acquired by Birth Outside the Islands to Former Danish Residents or Natives of the Islands

(TL:CON-66; 10-10-96)

- a. Children born between January 17, 1917 and February 25, 1927 to someone who became a U.S. citizen under Section 1 of the Act of February 1, 1927, were declared to be U.S. citizens as of February 25, 1927, regardless of their birthplace.
- b. The provisions of Section 1 were the same as those of Section 306(a)(1)-(3) INA [quoted in 7 FAM 1123.1 b].

7 FAM 1124 GUAM

7 FAM 1124.1 Current Law

(TL:CON-66; 10-10-96)

a. Persons born in Guam on or after December 24, 1952, acquire U.S. citizenship at birth. Guam is listed as part of the geographical definition of the "United States" in Section 101 (a)(38) INA. Section 301(a) INA provides that a person born in and subject to the jurisdiction of the United States shall be a U.S. citizen. *Section 307(b) INA conferred U.S. citizenship upon anyone born in Guam after April 11, 1899. Only those who affirmed or acquired a foreign nationality before August 1, 1950 are not U.S. citizens.*

b. The first law to confer U.S. citizenship on the inhabitants of Guam was the Organic Act of August 1, 1950 (64 Stat. 384)("the Organic Act") which incorporated Guam into the United States. Section 4 of the Organic Act added Section 206 to the Nationality Act of 1940. The provisions of Section 206 NA for the citizenship of natives and inhabitants of Guam were the same as those in Section 307 INA:

SEC 307. (a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States: Provided, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or a national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this Act.

c. Section 307(c) INA protects the foreign nationality of the Guamanian inhabitants who had made timely declaration pursuant to the treaty of cession or to the Organic Act.

d. The phrase "subject to the jurisdiction of the United States" in Section 307(b) INA refers to a condition at the time of birth and does not require residence in Guam or other territory over which the United States had jurisdiction on August 1, 1950, when these provisions originally were enacted as part of the Organic Act. [For more information on the meaning of "subject to the jurisdiction of the United States," see 7 FAM 1116.2 .]

7 FAM 1124.2 Nationality Status Before December 24, 1952

7 FAM 1124.2-1 Status of Inhabitants After Annexation and Before August 1, 1950

(TL:CON-66; 10-10-96)

a. Guam was acquired from Spain on December 10, 1898, as a result of the Spanish-American War. Article IX the Treaty of Paris (30 Stat. 1754), ratified on April 11, 1899, provided that the civil rights and political status of the native inhabitants of the ceded territory would be determined by Congress.

b. Until the Nationality Act of 1940 was amended by the Organic Act, on August 1, 1950, no law addressed the civil rights and political status of the inhabitants of Guam. The Department held that Spanish subjects, including natives of Guam and natives of the Spanish Peninsula (that is, persons born in Spain), who were residing in Guam at the time of its annexation became nationals, but not citizens, of the United States.

c. The only exceptions were Spanish subjects born in Spain who had kept their allegiance to Spain by making a declaration before October 11, 1900, as provided for in the Treaty of Paris.

7 FAM 1124.2-2 Status Acquired by Birth In Guam After Annexation And Before August 1, 1950

(TL:CON-13; 12-31-84)

a. Before August 1, 1950, the effective date of the Organic Act, it was held that:

(1) A person born in Guam on or after April 11, 1899, in wedlock to a U.S. national father or out of wedlock to a U.S. national mother became a noncitizen U.S. national at birth.

(2) Children born in Guam to U.S. citizens acquired U.S. citizenship under the conditions that applied to persons born abroad.

(3) Persons born in Guam to aliens did not acquire U.S. nationality at birth.

b. The following provisions of the Nationality Act of 1940 were not retroactive:

(1) Section 201(e) NA [quoted in 7 FAM 1121.4-1 b] set the terms under which U.S. citizenship could be acquired by birth in Guam from January 13, 1941, until Section 206 NA was added on August 1, 1950, pursuant to Section 4 of the Organic Act.

(2) Section 204(a) NA [quoted in 7 FAM 1121.4-1 c] governed the acquisition of noncitizen U.S. nationality by birth in Guam.

7 FAM 1124.2-3 Status Acquired by Birth Abroad to Natives or Inhabitants of Guam Who Had Acquired Noncitizen U.S. Nationality

(TL:CON-66; 10-10-96)

No special law was enacted to address the status of foreign- born children of Guamanians who were not U.S. citizens. The considerations discussed in 7 FAM 1140 apply.

7 FAM 1125 AMERICAN SAMOA AND SWAINS ISLAND

7 FAM 1125.1 Current Law

(TL:CON-66; 10-10-96)

a. As defined in Section 101(a)(29) INA, the term "outlying possession" of the United States applies only to American Samoa and Swains Island.

b. American Samoa and Swains Island are not incorporated territories, and the citizenship provisions of the Constitution do not apply to persons born there.

c. *Section 301(e) INA provides for acquisition of U.S. citizenship by birth in outlying possessions to one U.S. citizen parent who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person. Section 309 INA made Section 301(e) applicable to children born out of wedlock under certain conditions [see 7 FAM 1133.4].*

d. *Section 308(1) and (3) INA provides noncitizen U.S. nationality for the people born (or foundlings) in American Samoa and Swains Island [see 7 FAM 1121.4-2 for text of Sec 308 (1) and (3) INA].*

e. *By its wording, Section 308(1) INA is retroactive, effectively granting U.S. noncitizen nationality status to anyone born in American Samoa or Swains Island after annexation (February 16, 1900 for American Samoa and March 4, 1925 for Swains Island) and before December 24, 1952, who did not acquire noncitizen U.S. nationality at the time of birth.*

7 FAM 1125.2 Nationality Status of Inhabitants After Annexation

(TL:CON-66; 10-10-96)

a. American Samoa was ceded to the United States by a treaty entered into by the United States, Germany, and Great Britain dated December 2, 1899, and ratified February 16, 1900. The treaty did not address the issue of the nationality of the people living on those islands.

b. On February 16, 1900, the date of annexation:

(1) People living in American Samoa who formerly owed allegiance to Germany or Great Britain became noncitizen U.S. nationals, unless they exercised their right to retain their former nationality by removal from American Samoa or otherwise.

(2) The native inhabitants of American Samoa who belonged to a race indigenous to those islands also became noncitizen U.S. nationals.

NOTE: The same ethnic groups lived on other nearby islands, including Western Samoa, but only those born on the islands that became American Samoa could benefit from the terms of the treaty.

c. The joint resolution of March 4, 1925, pertaining to Swains Island stated that:

Whereas Swains Island ... is included in the list of guano islands appertaining to the United States, which have been bonded under the Act of Congress approved August 18, 1856, and

Whereas the island has been in the continuous possession of American citizens for over fifty years and no form of government therefor or for the inhabitants thereof has been provided by the United States:

Therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that sovereignty of the United States over American Samoa is hereby extended over Swains Island, which is made a part of American Samoa....

d. Native inhabitants of Swains Island of a race indigenous to that island who were not already U.S. citizens or nationals became noncitizen U.S. nationals if residing in Swains Island on March 4, 1925.

7 FAM 1125.3 Acquisition of Noncitizen U.S. Nationality by Birth Outside Outlying Possessions

(TL:CON-66; 10-10-96)

See 7 FAM1140 .

7 FAM 1126 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI)

7 FAM 1126.1 Former Trust Territory of the Pacific Islands (TTPI)

(TL:CON-66; 10-10-96)

a. The Trust Territory of the Pacific Islands (*TTPI*) was a U.N. Trust Territory administered by the United States under a trusteeship agreement with the U.N. Security Council, *which became* effective on July 18, 1947. The territory included the Caroline, Marshall and Mariana Islands (except Guam).

b. *Under Section 660 of the 1952 Code of the TTPI, the following persons were considered citizens of the TTPI:*

(1) *Persons born in the TTPI to two TTPI citizen parents.*

(2) *Persons born outside the TTPI to two TTPI citizen parents were TTPI citizens until the age of 21. Such persons lost their TTPI citizenship at the age of 21 unless they became permanent residents of the TTPI before reaching that age.*

(3) *Persons naturalized as TTPI citizens.*

c. *The trusteeship agreement was terminated for the majority of the territory in late 1986. The Northern Mariana Islands became the Commonwealth of the Northern Mariana Islands (CNMI), part of the United States on November 3, 1986. Marshall Islands became the Republic of the Marshall Islands (RMI), an independent country on October 21, 1986. Another group of islands that now form the Federated States of Micronesia (FSM) became, like the Marshall Islands, a sovereign, self-governing nation in free association with the United States on November 3, 1986. The Republic of Palau (ROP) achieved similar status on October 1, 1994.*

d. *Prior to November 3, 1986, the CNMI was considered to be a foreign country for nationality purposes, and citizens of the CNMI were considered to be aliens under U.S. law. The Covenant which established the CNMI contained provisions granting U.S. citizenship to certain natives and/or residents of the CNMI. The Compacts of Free Association relative to the RMI, the FSM and the ROP did not affect the citizenship of the inhabitants. These independent states are considered foreign countries for nationality purposes.*

7 FAM 1126.2 CNMI Covenant

(TL:CON-66; 10-10-96)

Pub. L. 94-241 (March 24, 1976) which entered fully into force at 9:01 a.m. on November 3, 1986, Eastern Standard Time (12:01 a.m. November 4, 1986 Saipan time) approved The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241, 90 Stat. 263) ("Covenant"). Under this Covenant certain natives and/or residents of the CNMI became U.S. citizens on November 3, 1986 EST. (All dates in this section are EST.)

7 FAM 1126.3 Citizenship under the CNMI Covenant

(TL:CON-66; 10-10-96)

An excerpt of the citizenship provisions of the CNMI Covenant (Sections 301 through 304) is shown below. This excerpt and others are also found in the Immigration and Nationality Act, 9th edition, April 1992, Appendix V.

Section 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provisions of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Mariana Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

Section 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I _____ being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

Section 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

Section 304. Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States of the United States.

7 FAM 1126.4 Legal Interpretations

(TL:CON-66; 10-10-96)

a. *When it went into effect in 1986, Section 301 of the Covenant was difficult to administer since it established a complicated set of criteria under which a CNMI domiciliary could acquire U.S. citizenship. These provisions required that the nationality of the applicant's parents and grandparents be ascertained in order to determine if the applicant acquired TTPI citizenship or possessed another nationality at the time of the effective date of the Covenant.*

b. *The language of the citizenship provisions and the Department's strict application of the law required judicial and negotiated interpretations. Under these interpretations, the phrase, "citizen of the Trust Territory" in Section 301 includes a person born in the Trust Territory who has or had at least one parent born in the Trust Territory. This simplifies the question of who acquired Trust Territory citizenship. Persons born abroad of two TTPI citizens acquired TTPI citizenship at birth and retained it provided they returned to the TTPI to reside prior to age 21 as originally stated in the TTPI code.*

c. *Another result of the legal interpretations is that it is not necessary for an applicant to establish that he or she owes no foreign allegiance aside from the completion of a statement to that effect [see 7 FAM 1126 Exhibit 1126.4 for statement language].*

7 FAM 1126.5 Guidelines for Adjudicating CNMI Applications

7 FAM 1126.5-1 Section 301(a) of the CNMI Covenant

(TL:CON66; 10-10-96)

Applicants claiming U.S. citizenship under Section 301(a) of the CNMI Covenant must have been born in the Northern Mariana Islands (NMI) of at least one Trust Territory citizen parent and have been domiciled in the NMI, the U.S. or any U.S. territory or possession on November 2, 1986, the date preceeding the effective date of the Convention. Such applicants must provide the following citizenship evidence:

(1) *Evidence of birth in the NMI such as a certified birth certificate or a letter from civil registrar that no record exists coupled with a baptismal certificate or other secondary evidence of birth;*

(2) *Evidence of TTPI citizenship of either parent. If the birth evidence shows that one parent was born in the former Trust Territories, which included the Northern Mariana Islands, the Marshall Islands, Micronesia (Eastern Caroline Islands made up of the States of Yap, Truk, Pohnpei (Ponape) and Kosrae) and Palau (Western Caroline Islands), no other evidence is needed. Otherwise the applicant must submit the parent's TTPI naturalization certificate or other evidence of the parent's TTPI citizenship;*

(3) *A supplemental statement [see 7 FAM 1126 Exhibit 1126.4] that the applicant did not have allegiance to another country on the effective date of the Covenant, November 3, 1986. It is not necessary to look at parents' and grandparents' birth certificate to address possible dual nationality. The supplemental statement of no allegiance to another country is accepted on its face;*

(4) Evidence of domicile in the NMI or in the U.S. on November 2, 1986. If this is unavailable, the applicant may include a statement in the required supplemental statement to this effect. Acceptable temporary absence on that date includes service in U.S. military, studying abroad or traveling on business. Absences for other reasons should be referred to the Department, CA/OCS/ACS.

7 FAM 1126.5-2 Section 301(b) of the CNMI Covenant

(TL:CON-66; 10-10-96)

Section 301(b) of the Covenant confers U.S. citizenship as of November 3, 1986 on persons who were citizens of the former TTPI on November 2, 1986, domiciled in the NMI from at least November 1981 to November 1986 and registered to vote, unless underage, in an NMI election before January 1, 1975. Such applicants must provide the following evidence of citizenship:

(1) A certified birth certificate or a letter from the registrar of no record coupled with a baptismal certificate or other secondary evidence;

(2) Evidence of the TTPI citizenship as of November 2, 1986. If the applicant acquired TTPI citizenship at birth, and the birth evidence shows that one parent was born in the former TTPI, no other evidence is needed. Otherwise the applicant must provide evidence of either parent's TTPI citizenship. NOTE: If the applicant was born outside the TTPI, and was 21 or older on November 2, 1986, he or she must also provide evidence that he or she became a permanent resident of the TTPI while under the age of 21. If naturalized, the applicant must provide a certificate of naturalization as TTPI citizen;

(3) Evidence of continuous domicile in NMI for five years immediately prior to November 2, 1986 (only from November 1981 to November 1986). Evidence may include hospital records, property records, employment records, NMI Social Security earnings statements, or other similar records. Only original documents will be considered. (Employment records and affidavits must be supported by other documentary evidence of domicile.) Acceptable temporary absence from the NMI during this period includes service abroad with the U.S. military, studying abroad or traveling on business. Cases involving other absences should be referred to the Department, CA/OCS/ACS;

(4) Unless under age 18 on January 1, 1975, evidence of registration to vote in an election of the Mariana Islands district legislature or any municipal election in those islands prior to January 1, 1975. Examples of such evidence would be a copy of record of voting registration or a standard certification form from NMI Board of Elections;

(5) A supplemental statement [see 7 FAM 1126 Exhibit 1126.4] that the applicant did not have allegiance to another country on the effective date of the Covenant. The supplemental statement of no allegiance to another country is accepted on its face.

7 FAM 1126.5-3 Section 301(c) of the CNMI Covenant

(TL:CON-66; 10-10-96)

Section 301(c) of the Covenant applies to all individuals who were domiciled in the NMI on November 2, 1986, and who, whether or not TTPI citizens, had been domiciled continuously in the NMI beginning prior to January 1, 1974. In these cases, the applicant must provide:

(1) A certified copy of his or her foreign birth certificate, or a letter of no record coupled with a baptismal certificate or other secondary evidence;

(2) Evidence of entry into the NMI prior to January 1, 1974 such as foreign passport with original entry stamps, airline tickets, or boarding passes;

(3) Evidence of a continuous domicile in the NMI beginning prior to January 1, 1974 through November 2, 1986. Evidence may include hospital records, property records, employment records, NMI Social Security earnings statements, or other similar records. (Employment verification records and affidavits must be supported by other documentary evidence of domicile.) A temporary absence from the NMI is acceptable as long as there is evidence that the applicant intended to return to the NMI. Evidence of intent may include evidence of money transfers to the NMI and/or evidence of the residence of family members in the NMI;

NOTE: Plaintiffs in the Pangelinan court case do not have to present evidence of domicile for the period January 1, 1974 through March 6, 1977. Consuls must review the list of plaintiffs in the Pangelinan case in 7 FAM 1126 Exhibit 1126.5-3 to determine if a 301(c) applicant is part of this class.

(4) A supplemental statement [see 7 FAM 1126 Exhibit 1126.4] that applicant did not have allegiance to another country on the effective date of the Covenant, November 3, 1986. The supplemental statement of no allegiance to another country is accepted on its face.

7 FAM 1126.5-4 Minor Children of CNMI Covenant Section 301 Applicants

(TL:CON-66; 10-10-96)

a. The preamble to Section 301 of the Covenant confers U.S. citizenship on: "The following persons and their children under the age of 18..." This language grants U.S. citizenship to the minor children of any person who acquired U.S. citizenship under Section 301 of the Covenant, no matter where the children were born or domiciled. This only applies to children who were under the age of 18 on November 3, 1986. Proof of domicile is not required in these cases. A child born outside the CNMI after November 3, 1986, does not acquire U.S. citizenship under the Covenant but may have a claim under Section 301 INA.

b. *Children adopted by persons who acquired U.S. citizenship under Section 301 of the Covenant are also citizens under Section 301 as of November 3, 1986. These applicants must provide evidence of their adoptive parent(s)' claim under Section 301(a), 301(b), or 301(c) of the Covenant, a timely filed certified birth certificate, and a certified adoption decree showing adoption before November 3, 1986 while under the age of 18. Such applicants need not be or have been in the NMI at any time. Children adopted after November 2, 1986 do not acquire U.S. citizenship under the Covenant.*

7 FAM 1126.5-5 Section 303 of the CNMI Covenant

(TL:CON-66; 10-10-96)

All persons born in the CNMI after November 2, 1986 acquire U.S. citizenship at birth under Section 303 of the Covenant. The applicant need only present a certified copy of his or her birth certificate as proof of citizenship.

7 FAM 1126.5-6 Northern Mariana Identification Card

(TL:CON-66; 10-10-96)

a. *INS issued a Northern Mariana Identification Card, from July 31, 1988 through April 1, 1990 only, to persons who could establish a claim to U.S. citizenship under the CNMI Covenant. This card may be accepted as evidence of U.S. citizenship in place of primary documents. However, if there is other evidence which indicates that the applicant did not acquire U.S. citizenship, the consular officer may require additional documentation.*

b. *The face of the Northern Mariana Identification Card is similar in appearance to an alien registration card, but the general color scheme is red. The fourth line of data contains the place of issue (labelled "POI") rather than the place of entry, and an unlabelled eligibility code. The eligibility code is the letters "MI" followed by a 1,2, or 3 to indicate the appropriate acquisition section of the Covenant.*

c. *The reverse of the card contains the following text:*

THE PERSON IDENTIFIED ON THIS CARD HAS BEEN DETERMINED TO BE A CITIZEN OF THE UNITED STATES PURSUANT TO PUBLIC LAW 94-241 OF MARCH 24, 1976 AND PRESIDENTIAL PROCLAMATION 5564 OF NOVEMBER 3, 1986.

This is overprinted on a medium blue seal. The reverse also contains a line of reference numbers. The second number, a three-digit number, corresponds to the month of issue. If this number is less than 135 or more than 161, refer the card to the Department, CA/OCS/ACS, for verification.

7 FAM 1126.5-7 Applicants Claiming National Status

(TL:CON-66; 10-10-96)

Under Section 302 of the CNMI Covenant, persons who became U.S. citizens under Section 301 could, by May 3, 1987 or within 6 months of their 18th birthday, opt to be solely a national and not a citizen of the United States by making a declaration under oath in any United States Court or NMI court. If the applicant checks on the supplemental statement that he or she has declared his or her intention to become a national and not a citizen, the court certification must be submitted. The applicant must also provide evidence of acquisition under Section 301.

7 FAM 1126.5-8 Department Referrals

(TL:CON-66; 10-10-96)

Cases coming under the Covenant which posts find difficult to adjudicate should be referred to the Department, CA/OCS/ACS, for an advisory opinion.

7 FAM 1127 FORMER TERRITORIES

7 FAM 1127.1 Panama Canal Zone (from February 26, 1904 to Present)

7 FAM 1127.1-1 Current Status

(TL:CON-66; 10-10-96)

a. The Panama Canal Treaty (TIAS 10030) transferred jurisdiction over the Canal Zone to Panama, effective October 1, 1979. As of that date, the Canal Zone ceased to exist as a separate and distinct geographical entity, making inoperative Section 303(a) INA.

b. Children born in the former Canal Zone after October 1, 1979 acquire U.S. citizenship at birth only if they come within the scope of Sections 301, 303(b), or 309 INA [see 7 FAM 1127.1-2 a and 7 FAM 1131 .]

c. Individuals who acquired U.S. citizenship by birth in the Canal Zone, acquired citizenship unconditionally and maintained their citizenship after enactment of the Panama Canal Treaty.

d. All individuals who possessed non-citizen U.S. nationality by virtue of their birth in the Canal Zone, ceased to hold that status on October 1, 1979.

7 FAM 1127.1-2 Status from December 24, 1952 until October 1, 1979

(TL:CON-66; 10-10-96)

a. The Immigration and Nationality Act of 1952 (INA) entered into effect on December 24, 1952. As originally enacted, Sections 303(a) and (b) INA provide as follows:

SEC 303. [8 U.S.C. 1403] (a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

b. Section 303(a) became inoperative on October 1, 1979, *when jurisdiction over the Zone was transferred to Panama.*

c. From December 24, 1952, until October 1, 1979, a child born in the Canal Zone to a U.S. citizen acquired U.S. citizenship unconditionally. The parent was not required to have resided previously in the United States.

7 FAM 1127.1-3 Status before December 24, 1952

(TL:CON-66; 10-10-96)

a. Status After Extension of U.S. Sovereignty to the Canal Zone

(1) The area formerly known as the Canal Zone was leased to the United States by a treaty with the Republic of Panama, effective February 26, 1904.

(2) The treaty did not address the nationality status of the native inhabitants. Pursuant to the principles of international law, they became noncitizen U.S. nationals unless they elected to retain their previous nationality.

(3) For most nationality purposes, the Canal Zone was considered to be foreign territory.

b. Status Acquired by Birth In The Canal Zone After Extension of U.S.

From February 26, 1904, until August 4, 1937, acquisition of U.S. citizenship by persons born in the Canal Zone was governed by Section 1993, Rev Stat. [see 7 FAM 1135]. *Thus from February 26, 1904 to May 23, 1934, citizenship was transmitted only to children whose fathers were, at the time of the child's birth, U.S. citizens who had previously resided in the United States. The original Section 1993, R.S., was amended by Act of May 24, 1934, and made possible transmission of citizenship by either U.S. citizen parent who had previously resided in the United States.*

c. Laws Granting U.S. Citizenship To Certain Persons Born in the Canal Zone

(1) The Act of August 4, 1937 (50 Stat. 558)("the Act") was the first statute to provide for citizenship to certain individuals born in the Canal Zone. Section 1 of the Act provided for acquisition of U.S. citizenship by persons born in the Canal Zone on or after February 26, 1904, to a U.S. citizen parent. The wording of Section 1 was the same as that of Section 303(a) INA, quoted in 7 FAM 1127.1-2 a . The U.S. citizen parent did not need prior U.S. residence to transmit citizenship, and no retention requirement applied to the children. The Department holds that children born in the Canal Zone between May 24, 1934 and August 4, 1937 were not subject to the retention requirements of Section 1993 R.S., as amended.

(2) Under the Act of August 4, 1937, persons born in the Canal Zone to a U.S. citizen before passage of the Act acquired U.S. citizenship on August 4, 1937, if they had not already acquired U.S. citizenship. Those born there after August 4, 1937, to a U.S. citizen acquired U.S. citizenship at birth.

d. Provisions from January 13, 1941 to December 24, 1952

Section 203(a) NA restated the provisions of Section 1 of the Act of August 4, 1937. Its text was the same as that of Section 303(a) INA. As with the Act of 1937, no prior residence or physical presence of the parent in the United States was required to transmit U.S. citizenship, and no later residence or physical presence of the child was required to retain U.S. citizenship.

e. Status of Persons Born in The Canal Zone to Aliens

Persons born in the Canal Zone of alien parents did not acquire U.S. nationality at birth.

7 FAM 1127.2 Philippine Islands (from April 11, 1899 to Present)

7 FAM 1127.2-1 Current Status

(TL:CON-66; 10-10-96)

a. The Philippine Islands were an outlying possession of the United States from April 11, 1899, until their independence on July 4, 1946.

b. Persons born in the Republic of the Philippines on or after July 4, 1946, do not acquire U.S. citizenship at birth unless they are entitled to it through their parents under one of the sections of the Nationality Act of 1940 or of the Immigration and Nationality Act of 1952 relating to birth abroad.

c. All individuals who acquired U.S. noncitizen nationality status by virtue of their birth in the Philippines between April 11, 1899 and July 3, 1946, ceased to have that status upon Philippine independence on July 4, 1946.

7 FAM 1127.2-2 Status from April 11, 1899 Through July 3, 1946

(TL:CON-66; 10-10-96)

a. Status after Annexation

(1) The Philippine Islands were acquired from Spain by the Treaty of Paris of 1899 (30 Stat. 1754), effective April 11, 1899.

(2) Under Article IX of the Treaty of Paris [quoted in *7 FAM 1122.2-1 a*] Spanish subjects born in the Spanish peninsula and then residing in the Philippines became noncitizen U.S. nationals as of April 11, 1899, unless they transferred their residence from the Philippines or made a declaration to retain Spanish allegiance before October 11, 1900.

(3) The original period of one year in which natives of Spain could make a declaration to retain Spanish nationality was extended for 6 months, beginning April 11, 1900, by a protocol signed at Washington on March 29, 1900.

(4) Other Spanish-subject inhabitants of the Philippines, primarily native Filipinos, had no right to opt to retain their Spanish citizenship and became noncitizen U.S. nationals on April 11, 1899.

b. Status Acquired by Birth in the Philippines

(1) Children born in the Philippines after April 11, 1899, but before January 13, 1941, to U.S. nationals became noncitizen U.S. nationals at birth. *Similar status was acquired at birth under Sec 204(a) of the Nationality Act of 1940, by a person born in the Philippines to a U.S. noncitizen national parent on or after January 13, 1941 but before July 4, 1946.*

(2) Children born there to aliens did not acquire U.S. nationality.

c. Nationality Status of Filipinos

(1) U.S. citizenship was never conferred on Filipinos as a group by special legislation. They continued as noncitizen U.S. nationals until July 4, 1946, when the United States recognized the Philippines as an independent nation.

(2) The Act of July 1, 1902 (32 Stat. 692) provided:

That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then residing in said islands, and their children born subsequent thereto, shall be deemed and held to the citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain.

(3) The Act of August 29, 1916 (39 Stat. 546) added a further exception for persons who had acquired other nationalities. Both that Act and the Act of March 23, 1912 (28 Stat. 76) authorized the Philippine legislature to provide by law for the acquisition of Philippine citizenship by certain categories of people. From March 26, 1920, to June 17, 1943 the Philippine legislature enacted laws that bestowed noncitizen U.S. nationality on all persons who acquired Philippine citizenship under the Act of August 29, 1916.

(4) Under Section 204(a) NA (quoted in 7 FAM 1121.4-1c), effective January 13, 1941, a person acquired noncitizen U.S. nationality if born in the Philippines, *prior to its independence*, of a parent who was a noncitizen U.S. national.

(5) The only way that a person born in the Philippines could acquire U.S. citizenship was by birth to a U.S. citizen or by naturalization. Under Section 201(e) NA, a person born in the Philippines before July 4, 1946, could acquire U.S. citizenship at birth if one or both of the parents was a U.S. citizen who had previously resided in the United States or in an outlying possession such as the Philippines. Section 1993, Rev Stat. as *originally enacted (incorporating the Act of February 10, 1855) and as amended, effective May 24, 1934*, applied prior to January 13, 1941.

(6) On July 4, 1946, all Philippine citizens who had not acquired U.S. citizenship lost their noncitizen U.S. nationality whether they resided in the Philippines or in the United States.

7 FAM 1127.2-3 Status Acquired by Birth Outside the Philippines to Filipino U.S. Nationals

(TL:CON-13; 12-31-84)

No Federal law addressed the status of foreign-born children of Filipino U.S. nationals. The considerations discussed in 7 FAM 1140 apply to children born abroad to Filipino U.S. nationals before July 4, 1946.

7 FAM 1127.3 Republic of the Marshall Islands

(TL:CON-66; 10-10-96)

a On October 21, 1986, the Marshall Islands became the Republic of the Marshall Islands (RMI), an independent country, in accordance with The Compact of Free Association Act of 1985, (Pub. L. 99-239, January 14, 1986)("the Compact"). Under this law:

(1) Citizens of the RMI, who do not have claims to U.S. citizenship under Sections 301(c), (d), or (g) of the INA or comparable Sections of the NA of 1940, are neither citizens, nor nationals of the United States.

(2) Certain citizens of the RMI may enter the United States as non-immigrants, and engage in employment, without obtaining U.S. visas (Section 141 of Pub. L. 99-239).

(3) All RMI citizens are entitled to U.S. consular protection abroad on the same basis as U.S. citizens. For instructions on special consular services and other facilitative documentary services rendered to RMI citizens see 7 FAM 1000 , Protecting Powers.

b. *The United States has an Embassy in Majuro. Consular services are provided in the U.S. Embassy in Majuro as in any other U.S. Embassy or Consulate.*

7 FAM 1127.4 Federated States of Micronesia

(TL:CON-66; 10-10-96)

a. *On November 3, 1986, the island group of Yap, Truk (or Chuuk), Ponape, and Kosrae became the Federated States of Micronesia (FSM), an independent state, in accordance with The Compact of Free Association Act of 1985. Under this law:*

(1) *Citizens of the FSM, who do not have claim to U.S. citizenship under Sections 301(c), (d), or (g) INA or comparable sections of the NA of 1940, are neither citizens nor nationals of the United States.*

(2) *Certain citizens of the FSM may enter the United States as non-immigrants, and be employed, without visas (Section 141 of Pub. L. 99-239).*

(3) *All citizens of the FSM are entitled to U.S. consular protection abroad on the same basis as U.S. citizens. For instructions on special consular services and other facilitative documentary services rendered to FSM citizens see 7 FAM 1000 , Protecting Powers.*

b. *The United States has an Embassy in Kolonia. Consular services are provided at the U.S. Embassy in Kolonia as in any other U.S. Embassy or Consulate.*

7 FAM 1127.5 Republic of Palau

(TL:CON-66; 10-10-96)

a. *On October 1, 1994, the island of Palau became The Republic of Palau (ROP), an independent sovereign country in accordance with the Compact of Free Association Between the United States and the Government of Palau (Pub. L. 99-658, November 14, 1986).*

(1) *Natives or citizens of the ROP, who do not have claims to U.S. citizenship under the INA or the NA, are neither citizens nor nationals of the United States.*

(2) *Certain citizens of the ROP may enter the United States as non-immigrants, and be employed, without visas (Section 141 of Pub. L. 99-658).*

(3) *All citizens of Palau are entitled to U.S. consular protection abroad on the same basis as U.S. citizens. For instructions on special consular services and other facilitative documentary services rendered to citizens of Palau see 7 FAM 1000 , Protecting Powers.*

b. *The United States has an Embassy in Koror. Consular services are provided at the U.S. Embassy in Koror as in any other U.S. Embassy or Consulate.*

7 FAM 1128 NATIONALITY CHARTS

(TL:CON-66; 10-10-96)

There are three quick-reference charts [see 7 FAM 1120 Appendix A] located in the appendix of this subchapter which show how citizenship is acquired in the territories; individual charts for the Virgin Islands and Puerto Rico and a main chart for the remainder of the territories and former territories.

7 FAM 1129 UNASSIGNED

7 FAM 1126 Exhibit 1126.4

SUPPLEMENTAL STATEMENT FOR APPLICANTS CLAIMING CITIZENSHIP UNDER PUB. L. 94-241

This statement must be completed by every applicant for a United States passport who claims to have acquired United States citizenship under the provisions of Section 301 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States. (Pub. L. 94-241, approved March 24, 1976, and effective on November 3, 1986)

I, _____ was born on _____ at _____.
(Name) (Date) (Place of Birth)

I did () did not () owe allegiance to or was a citizen or subject of any foreign state as of the effective date of Section 301 of the Covenant.

I have () have not () since acquiring United States citizenship under Section 301 declared under the provisions of Section 302 of the covenant my intention to become a national but not a citizen of the United States. (If you have made such a declaration, please provide a copy.)

From the date of my birth I have resided in the following places.

(Please list starting from your date of birth.)

<u>PLACE</u> (City, State, Country)	<u>DATES</u> mo/day/yr	<u>PURPOSE</u>
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____
_____	from _____ to _____	_____

Indicate purpose of periods of residence outside U.S. or NMI: vacation, residence, business, studies, U.S. military service, U.S. military dependent, etc. If working abroad, give name of employer.

(Sign in presence of consul)

7 FAM 1126 Exhibit 1126.4 (continued)

SAMPLE SUPPLEMENTAL STATEMENT

Venue

_____)
(Name of Country))
)
)
_____)
(Name of State, Province, etc.))
)
)
_____)
(Name of City))
)
)
_____)
(Name of Consular Post)

Subscribed and sworn (affirmed) to before me this

_____ day of _____, _____.

(Signature of Consular Officer)

(Typed Name of Consular Officer)

(Title of Consular Officer)

(SEAL)

7 FAM 1126 Exhibit 1126.5-3

CNMI COVENANT

List of Pangelinan Plaintiffs

Nestor Rafanan ABLOG
Jose ACIBES, Jr.
Samuel A. AGANA
Jimmy Gadot AGLIPAY
Leonardo Aranda AJOSTE
Severo Cuano AVILA
Nicanor Alba BACAGO
Romulo B. BALLESTEROS
Jose Lingal BOCAGO
Nicanor A. BOCAGO
Anastacio Pascua BUCCAT
Thomas San Pedro BUNDOC
Angelita Mendoza BUNIAG
Marcial Canaria CARREA
Edgardo T. CASTILLO
Marcial C. CORREA
Guadalupe Tababa MANACOP
Leonardo Yumul MANACOP
Jorge Mtat MANALILI
Eduardo Ustaris MANUEL
Regina Maningas MANUEL
Catalina A. MATIAS
Flora Cordera MENDOZA
Pedro De Castro MENDOZA
Cirilo Oliquiano NAVALTA
Angel E. OCAMPO, Jr.
Aureliano O. OCASION
Eulogia M. OCASION
Miguel Mendezabel OLIVER
Camillo Arellano ORALLO
Romeo Cabinga PAGAPULAR
Alfonso Basilio PAMINTUAN
Eduard P. PANGELINAN
Andronico Villalino PELEN
Alejandro Purzzan PERREZ
Humberto Lopez QUIBLAT
Betty Leonida F. QUIDILIG
Alberto Palabay RAMOS
Eduard C. REFUGIA
Pedro Amil REMOQUILLO

7 FAM 1126 Exhibit 1126.5-3 (continued)

Jose Isidro SAN JUAN
Mauro Rodriqiz SANTOS
Apolonio M. SEMANA
Aquilino M. SEMANA
Adolfo Canlas SERRANO
Bricco Bautista SISON
Kazuko TAGUCHI
Takashi TAGUCHI

Antonio Francisco TEBORA
Dominator Daya TORRES
Rodico G. VIDAL
Bernardo Ruffy VILLACRUSIS
Victorino Urcia VILLACRUSIS
Levy Nicolas Centeno VILLEGAS
Reynoldo Obsiome YANA
Alberto Tolentino ZARZOSO

7 FAM 1120 Appendix A 1 , ACQUISITION OF NATIONALITY OR CITIZENSHIP THROUGH RESIDENCE OR BIRTH IN VIRGIN ISLANDS

RESIDENCE IN VIRGIN ISLANDS		
CATEGORY OF PERSONS	CITIZENSHIP/NATIONALITY STATUS	LAWS APPLICABLE
Danish citizens who elected to retain Danish nationality prior to 1/17/18	No U.S. nationality or citizenship	Art. 6 of U.S.-Danish Treaty of 8/4/16, eff 1/17/17
Danish citizens who elected to retain Danish nationality prior to 1/17/18 but subsequently renounced it	If residing in V.I. 1/17/17 and residing in V.I., U.S. or P.R. 2/25/27, U.S. citizenship as of 2/25/27 or renunciation date, whichever later	Sec. 1(a), Act of 2/25/27; Sec. 306(a)(1), INA
Danish citizens, including V.I. natives, not electing to retain Danish nationality prior to 1/17/18	If residing in V.I. 1/17/17, U.S. nationality as of 1/17/17	Art. 6 of U.S.- Danish Treaty of 8/4/16
	If residing in V.I. 1/17/17 and residing V.I. U.S. or P.R. 2/25/27, U.S. citizenship as of 2/25/27	Sec. 1(a), Act of 2/25/27; Sec. 306(a)(1) INA
	If residing in U.S. 1/17/17 and residing in V.I. 2/25/27, U.S. citizenship as of 2/25/27	Sec. 1(c), Act of 2/25/27; Sec. 306(a)(3), INA
V.I. natives, not citizens or subjects of any foreign country (including, former Danish citizens who had failed to elect such nationality)	If residing in U.S., V.I., P.R., C.Z. or any other insular possession or territory of U.S. 6/28/32, regardless of residence 1/17/17, U.S. citizenship as of 6/28/32	Sec. 1(d), Act of 2/25/27, as amended by Act of 6/28/32; Sec. 306(a)(4), INA
Children of any of above, born subsequent to 1/17/17 and prior to 2/25/27 or 6/28/32 regardless of birthplace ¹	Acquired same status as did parents as of date parents' status acquired ²	Art. 6 of U.S.-Danish Treaty of 8/4/16; Sec. 1, Act of 2/25/27; Sec. 306(a), INA
BIRTH IN VIRGIN ISLANDS		
All persons born in V.I. between 1/17/17 and 2/25/27, subject to U.S. jurisdiction	U.S. nationality from 1/17/17 to 2/24/27; U.S. citizenship as of 2/25/27	Sec. 3, Act of 2/25/27
All persons born in V.I. on or after 2/25/27 and subject to jurisdiction	U.S. citizenship at birth	Sec. 3, Act of 2/25/27; Secs. 101(d) & 201(a), 1940 Act; Sec. 306(b), INA

¹ Refers to children whose parents had acquired U.S. citizenship

² If residing in U.S., V.I., P.R., or C.Z.

7 FAM 1120 Appendix A 2 , ACQUISITION OF NATIONALITY OR CITIZENSHIP BY NATIVES AND RESIDENTS OF PUERTO RICO

PERSONS BORN IN PUERTO RICO			
DATE OF BIRTH	CATEGORY	NATIONALITY/CITIZENSHIP STATUS	APPLICABLE LAW
4/11/1899-1/13/41	1. Born of Spanish subjects (natives of Peninsula) who did not elect to retain Spanish nationality, or of Spanish subject native P.R. parents (mother or father) residing in P.R. on 4/12/1900	Made or born citizens of Puerto Rico and U.S. noncitizen nationals as of 4/12/1900	Sec. 7, Act of 4/12/1900
		Made U.S. citizens on 3/2/17 unless elected to retain P.R. citizenship prior to 9/2/17; Born U.S. citizens if birth occurred subsequent to 3/2/17	Sec. 5, Act of 3/2/17
		If had elected to retain P.R. citizenship, could acquire U.S. citizenship by declaration of allegiance before 3/5/28	2nd proviso, Sec. 5a, Act of 3/2/17 (added by Act of 3/4/27)
	2. Born of parents who were not Spanish subjects natives of Peninsula or of P.R.)	Could acquire U.S. citizenship on or after 3/2/17 by declaration of allegiance within 1 year after majority	2nd proviso, Sec. 5a Act of 3/2/17
		Declaration period extended to 3/4/28	2nd proviso, Sec. 5a Act of 3/2/17 (added by Act of 3/4/27)
		If stateless, made U.S. citizens	Sec. 5b Act of 3/2/17 (added by Act of 6/27/34)
If U.S. citizenship not yet acquired could acquire by declaration of allegiance between 1/13/41 and 12/24/52		Sec. 322, 1940 Act	
3. All persons born in P.R. on or after 4/11/1899, subject to U.S. jurisdiction, who resided 1/13/41 in P.R., U.S. or other territory over which U.S. exercises rights of sovereignty	If U.S. citizenship not yet acquired under any law, made U.S. citizens on 1/13/41	Sec. 322, 1940 Act	
		Sec. 202, 1940 Act; Sec. 302, INA	
On or after 1/13/41	4. All persons born in P.R.	Acquired U.S. citizenship at birth	Sec. 202, 1940 Act

7 FAM 1120 Appendix A 3 , ACQUISITION OF NATIONALITY OR CITIZENSHIP BY NATIVES AND RESIDENTS OF PUERTO RICO

PERSONS RESIDENT IN PUERTO RICO AS OF 4/11/1899

CATEGORY	NATIONALITY/CITIZENSHIP STATUS	APPLICABLE LAW
1(a) Aliens (not Spanish subjects) 1(b) Spanish subjects, natives of peninsula who elected to retain Spanish nationality by declaration within 1 yr. or departure P.R.	No P.R. or U.S. nationality or citizenship acquired	Art IX, U.S.-Spanish Treaty of Peace
2(a) Spanish subjects, natives of peninsula, who did not elect to retain Spanish nationality 2(b) Spanish subjects, natives of P.R.	Spanish nationality lost. U.S. noncitizen nationality acquired P.R. citizenship acquired by residing there on 4/12/1900	Art IX U.S.- Spanish Treaty of Peace Sec 7 Act of 4/12/1900
3 (a) Citizens of P.R. 3(b) Natives of P.R. temporarily absent on 4/11/1899 but permanently residing in P.R. on 3/2/17	U.S. citizenship acquired 3/2/17 unless elected to retain P.R. citizenship prior to 9/2/17 If elected to retain P.R. citizenship could acquire U.S. citizenship by declaration of allegiance prior to 3/5/28	1st para, Sec 5, Act of 3/2/17 2nd proviso, Sec 2 Act of 3/4/27
4. Persons born in P.R. prior to 4/11/1899 of alien parents who were not Spanish subjects .	If permanently residing P.R. as of 3/2/17, could acquire U.S. citizenship by declaration of allegiance prior to 9/2/17, or (if a minor) within 1 yr. after attaining majority If U.S. citizenship not yet acquired could do so by declaration of allegiance prior to 3/5/28 If U.S. citizenship not yet acquired, could do so by declaration of allegiance between 1/13/41 and 12/24/52	2nd proviso, Sec 5 Act of 3/2/17 1st proviso, Sec. 2 Act of 3/4/27 Sec. 322, 1940 Act

7 FAM 1120 Appendix A 4 , U.S. CITIZENSHIP/NATIONALITY STATUS OF NATIVES AND INHABITANTS OF U.S. TERRITORIES AND POSSESSIONS

DATE OF BIRTH	CITIZENSHIP STATUS	APPLICABLE LAW
<p>ALASKA On or after 03/30/1867</p>	<p>If born in Alaska, became U.S. citizen at birth. Except: Noncitizen Indians born in Alaska on or after March 30, 1867 and prior to June 2, 1924 who acquire U.S. citizenship as of June 2, 1924. Indians born in Alaska on or after June 2, 1924 are U.S. citizens at birth.</p>	<p>Sec. 101 (a)(38) INA Sec. 301 (a) INA Sec. 304 INA</p>
<p>HAWAII 08/12/1898-04/29/1900 On or after 04/30/1900-</p>	<p>If born in Hawaii, became U.S. citizen as of Apr. 30, 1900. If born in Hawaii, became U.S. citizen at birth</p>	<p>Sec. 305 INA Sec. 101(a)(38) INA Sec. 301(a) INA Sec. 305 INA</p>
<p>GUAM Prior to 04/11/1899 On or after 04/11/1899-07/31/50 On or after 08/01/50-</p>	<p>(1) Became noncitizen U.S. national as of 04/11/1899 if Spanish subject native of Guam or native of Spanish peninsula residing in Guam on 04/11/1899 unless allegiance declared to Spain before 10/11/1900. (2) Became U.S. citizen as of 08/01/50 if (a) Was either born in Guam or was a Spanish subject on 04/11/1899; and (b) Inhabited Guam on 04/11/1899; and (c) Continued to inhabit Guam or any other territory over which U.S. exercised sovereignty after 04/11/1899; and (d) was residing in Guam or other U.S. territory on 08/01/50; and (e) Took no affirmative steps to preserve or acquire foreign nationality. Children born after 04/11/1899 of such persons also acquired U.S. citizenship as of 08/01/50. If born in Guam, became U.S. citizen at birth provided no affirmative steps taken to acquire or preserve a foreign nationality. If born in Guam, became U.S. citizen at birth</p>	<p>U.S. Supreme Court Insular decisions Sec. 307(a)(1)(2) INA Sec. 307(b) INA Sec. 101(a)(38) INA Sec. 301(a) INA Sec. 307(b) INA</p>
<p>AMERICAN SAMOA Prior to 02/16/1900 On or after 02/16/1900-</p>	<p>If inhabitant of American Samoa, became noncitizen U.S. national as of 2/16/1900. Except British and German citizens who took steps to preserve their former nationality. If born in American Samoa, became noncitizen U.S. national at birth.</p>	<p>The Tripartite Convention of February 16, 1900. Sec. 101(a)(29) INA; Sec. 308 INA</p>

7 FAM 1120 Appendix A 4 (continued)

<p><u>SWAINS ISLAND</u> Prior to 3/04/25</p> <p>On or after 03/04/25-</p>	<p>If inhabitant of Swains Island not already U.S. citizen or noncitizen U.S. national became noncitizen U.S. national as of 3/4/25.</p> <p>If born on Swains Island, became noncitizen U.S. national at birth.</p>	<p>Joint Resolution of March 4, 1925</p> <p>Sec. 101(a)(29) INA; Sec. 308 INA</p>
<p><u>THE NORTHERN MARIANA ISLANDS</u> <u>Prior to 11/03/86</u></p> <p>On or after 11/30/86-</p>	<p>Became U.S. citizen as of 11/3/86, if no allegiance owed to any foreign state; <u>and</u></p> <p>(1) Was born in the Northern Mariana Islands and (a) Was a citizen of the TTPI on 11/2/86; and (b) Was domiciled on 11/2/86 in the NMI or any territory or possession of the U.S.; <u>or</u></p> <p>(2) Was citizen of the TTPI on 11/2/86 and (a) Was domiciled continuously in the NMI for at least 5 years immediately prior to 11/02/86; and (b) Was registered to vote in the elections for the Mariana Islands District Legislature or for any municipal election (unless underage) prior to 1/1/75; <u>or</u></p> <p>(3) Was domiciled in the MNI on 11/2/86 and had been continuously domiciled in the TTPI prior to 1/1/74; <u>AND</u></p> <p>(4) Children of any of the above who were under age 18 on 11/3/86.</p> <p>If born in the CNMI, became U.S. citizen at birth.</p>	<p>Sec. 301 of the Covenant of the Northern Mariana Islands (CNMI) Sec. 301(a) CNMI.</p> <p>Sec. 301(b) CNMI</p> <p>Sec. 301(c) CNMI</p> <p>Sec. 301 CNMI</p> <p>Sec. 303 CNMI</p>
<p><u>FORMER TERRITORIES PHILIPPINES</u> Prior to 04/11/1899</p> <p>04/12/1899-07/03/46</p>	<p>Became noncitizen U.S. national as of 4/11/1899 if: (a) Spanish subject born in the Spanish peninsula (i.e., no Filipinos); and (b) resided in the Philippines on 4/11/1899; and (c) Did not make a declaration to retain Spanish allegiance before 4/11/1900 or did not transfer residence from the Philippines. <u>But</u> all persons who acquired noncitizen U.S. nationality ceased to have that status on 7/4/46.</p> <p>Became noncitizen U.S. national at birth if born in the Philippines to a noncitizen U.S. national. But all persons who acquired noncitizen U.S. nationality ceased to have that status on 7/4/46.</p>	<p>Article IX, Treaty of Paris</p> <p>Article IX, Treaty of Paris Sec. 204(a) NA</p>
<p><u>PANAMA CANAL ZONE</u> 02/26/04-09/30/79</p> <p>10/01/79-</p>	<p>(1) Became noncitizen U.S. national if inhabitant of Canal Zone on 2/26/04 unless elected to retain previous nationality; <u>or</u></p> <p>(2) Became U.S. citizen at birth if born in CZ to a U.S. citizen father or mother.</p> <p>Person born in the CZ on or after 10/1/79 ceased to be able to acquire U.S. nationality or citizenship under Sec. 303 INA. Persons who possess noncitizen U.S. nationality by virtue of their birth in the CZ ceased to hold that status on 10/1/79.</p>	<p>U.S. Supreme Court Insular decisions</p> <p>Sec. 303(a) INA</p> <p>Panama Canal Treaty</p>

7 FAM 1146 THROUGH 1149 UNASSIGNED

7 FAM 1128 AND 1129 UNASSIGNED