

**Speech by Chief Immigration Officer Franz Manderson
To
The Cayman Islands Society of Professional Accountants
Ritz Carlton
6 June 2008**

Ladies and gentlemen, good afternoon.

It is a great pleasure indeed for me to be here this afternoon. I am very grateful to the leadership and members of CISPA for inviting me and for giving me the opportunity to spend a few minutes sharing with you how we at the Immigration Department have been responding to the challenges of a changing business environment.

We are undoubtedly living in extremely challenging times. Factors such as the sub-prime crisis and the knock-on effects of escalating oil prices on the cost of living - particularly in a small island nation where we depend heavily on imported goods – show how susceptible our prosperity is to international economic developments.

But in comparison with other nations in the region we are still relatively comfortable. It is a positive sign for us in Cayman that the recent National Assessment of Living Conditions (NALC) Report notes that at some 1.9 percent, our poverty level is the lowest in this region. This is a fragile comfort though. The NALC also noted that the government is dependent on the financial services sector for some 22 percent of its revenue. It is critical therefore that this industry continues to have confidence in Cayman as a place to do business. A key factor in this will be its ability to recruit and retain top quality personnel at a time when such personnel are in demand worldwide and are in a position to bargain for their services. It is also critical that businesses involved directly or indirectly in the tourism industry – the other pillar of our economy – are able to offer a top quality product that attracts visitors to our Islands. And inspires them to come back!

Since the beginning of this year, when the Immigration Department held the first ever “Immigration Week”, you will have heard me talk of the modernization process that the Immigration Department has undergone. As our Islands have grown and developed, we too have had to grow and develop to meet the challenges of a successful and sophisticated offshore business centre and tourism destination. At the same time we have

had to adapt to ensure that our borders are protected against the global threat of terrorism, human-smuggling and other forms of international immigration crime. I can tell you that just yesterday we saw the benefits of the new powers that were enacted in December 2006 with respect to combating illegal migration. The Summary Court convicted two foreign nationals of landing illegally in the Islands and their vessel was seized and forfeited to the Crown. Investigations have shown that these persons were involved in an elaborate human smuggling operation where Cuban nationals were taken from Cuba and transported to Honduras.

My presence here today is also in keeping with a commitment my senior staff and I made at the start of the year-- to keep the lines of communication open and strengthen dialogue with both our key stakeholders and the wider community. This commitment recognizes that in this modern age of globalization the Cayman Islands cannot live in isolation, disconnected from other nations. It recognizes also that for our Islands' to remain a leading offshore financial centre and a tourism destination of choice it is critical that our businesses are able to compete in the global market. Most importantly, we view our relationship with the private sector, through organizations such as yours, the Chamber of Commerce, the HR Society and others as being complementary and interdependent, rather than purely regulatory.

So, 'how has the Immigration Department reacted to these challenges?'

The Immigration Department is entrusted with the application and enforcement of our Islands' immigration legislation. When we consider that our population is now somewhere near 55,000 and there are some 24,000 work permits in force the reliance on overseas workers is clear. The Immigration Department therefore plays a critical role in sustaining a prosperous economy through managing migration and in doing so it has a very direct impact on the social fabric of these Islands. Over the past four years or so both immigration policy and the Department of Immigration itself have undergone major changes in order to meet the needs of a major offshore jurisdiction whilst at the same time protecting the long-term interests of our own nationals. I would like to spend a few minutes outlining first some of the initiatives the Department has implemented to meet these challenges.

One of the biggest challenges we have faced in recent years is processing the rapidly increasing numbers of work permit applications in a timely manner. We realize that this is a critical factor for all companies whether they are well established businesses or new companies anxious to get their business set up. A number of fixes have been attempted, but none really solved the problem. From an administrative perspective we have had to increase substantially the number of staff processing applications and preparing agendas for the Boards. But the Boards themselves, despite working relentlessly, struggle to keep up. This prompted the splitting of the Immigration Board into three separate Boards, two of which focused on the processing of work permits. While this was clearly the right thing to do, the numbers of application being received and the additional responsibilities that these Boards took on with respect to applications for key employee status meant that work permits were still not being granted any faster. The Immigration Law was then amended to allow the Boards to appoint smaller committees to process work permit applications. Again, while this helped, for one reason or another it was not a lasting solution and the backlogs reappeared.

In late 2007 the Cabinet gave its approval for a feasibility study to be undertaken by the Department into the granting of work permits administratively rather than by a Board. After considerable research, including looking at the UK's experience where all work permits are granted administratively, we concluded that this is clearly the direction in which we must proceed. I am pleased to inform you today that amending legislation has been drafted. This legislation which will give effect to the granting and renewing of certain straightforward categories of work permit by administrative staff and will be submitted to Cabinet for approval within the next two weeks. We have also created guidelines and checklists which will effectively be the 'rule book' for the administrative staff processing these applications. At the same time, a number of checks and balances have been designed to ensure that the potential for abuse of the system is minimised. We anticipate that this radical new approach to processing applications, which should come into effect in October, will allow for five hundred applications to be processed weekly as compared with approximately three hundred at present.

This does not mean though that the Work Permit Board and the Business Staffing Plan Board will cease to exist. They will instead focus their attention on more sensitive applications, key employee applications, and the approval of business staffing plans. We

anticipate that when the administrative grant process is fully functioning the turnaround time on applications will be reduced to fourteen days rather than three months as it is now. The fact that annual work permits will be granted within fourteen days means that employers will no longer need to apply for a temporary work permit to begin with and the temporary work permit will revert to the purpose for which it was intended, namely persons coming here for genuine temporary employment.

We have also listened to the concerns of the hospitality industry. We have responded to their submission that a six-month temporary work permit is too short for employees being taken on for peak season. At present when the six-month permit is due to expire they have little or no option but to apply for a full one-year permit although the employee is only going to be needed for a couple of months of that permit. To address this situation we are introducing very shortly a new form of temporary work permit for seasonal workers in the hospitality industry which will be valid for a maximum of eight months in any period of twelve months.

We have also listened to other sectors who complain that the present immigration rules are unclear or burdensome with respect to when a work permit is or is not required. For example, it should be clear that partners from overseas firms should not require a work permit to conduct strategy meeting with their colleagues in Cayman. Their presence here will be short and in no way interferes with what the Immigration Law is designed to protect. We accept that this is an area that needs clarification and I am pleased to announce today that a committee is being established to review this issue. To ensure that we are addressing the concerns of the private sector we intend to invite representatives from the private sector to serve on the committee.

Later in the year another important initiative will be brought into effect. This will require all employers to pre-qualify in order to be able to apply for work permits. This pre-qualification will require them to show that they are complying with the laws regarding health insurance and pension. Employers who fail to comply with these requirements or who are caught committing immigration offences could have their right to apply for work permits revoked. While this will clearly be detrimental to the ability of a company to continue to operate, I'm sure you will agree that our laws must be upheld and that

delinquent employers should not be allowed to have an advantage over those employers who comply with the rules and who treat their employees fairly.

We also wish to reward employers who have a proven track record of complying with immigration requirements, and who make genuine efforts to recruit, train and give opportunity for advancement to Caymanians. We intend to have broad consultation on this matter and we look forward to the participation of your executive.

I mentioned earlier our commitment to providing the best possible customer service. When I returned to the Department in July 2004 as Chief Immigration Office I made improving customer service a priority. I identified three key areas where we needed to improve: (1) to provide a more efficient and comfortable service to those visiting Immigration Headquarters; (2) to improve our response to telephone inquiries; and (3) to improve the way that we disseminate information generally to the public.

Through the introduction of an electronic queuing system, seating for our customers and a television in the reception area we have made a visit to the Department more comfortable. Ironically, some of our other improvements have reduced the average waiting time to only nine minutes so the ability of the customer to enjoy these comforts has been greatly reduced. In late 2006 we introduced a call centre, where our clients can find out information quickly and efficiently by telephone. Again, this feature has been very well received.

We also now have a modern website that provides comprehensive information on a very wide range of immigration issues. Since the launch of this new website in January there have been over 70,000 hits from persons in 170 countries, with over 300,000 page visits. And of the 70,000 who visited the site, 47,000 were in the Cayman Islands. So we are happy that the site is serving its purpose and making our services more accessible to both local and international clients. The site is also a key component with respect to freedom of information and openness.

We are also making full use of advanced technology to detect immigration crime and for the processing of passengers through our port. With almost two million passengers

passing through our border control facilities each year we are constantly seeking to improve processing times. To this end we have in the past two years introduced an advanced passenger arrival information system for cruise ship passengers and crew which ensures that processing takes place quickly. The outcome of this is that passengers then have more time to spend in the shops and taking part in activities, all of which contributes to the economy. This is a great improvement on the previous arrival procedure where passengers arriving off cruise ships were forced to wait for up to two hours before being granted permission to land.

Our officers now receive training on issues ranging from asylum and refugee protection to forgery detection.

You may have noticed that I have managed to talk so far without mentioning the Term Limit or “rollover policy”! This was not deliberate, but it is clearly an area that deserves its own mention.

In the past four years successive governments have taken action to address ‘the immigration problem’, namely the situation which had come about over quite a number of years of inaction where large numbers of foreign workers had been able to reside here for many years on work permits and who had acquired a legitimate expectation of being allowed to reside here permanently. This led to the introduction of a term limit policy in 2004. As you know, this move engendered, and continues to give rise to, much debate. Despite the criticisms this policy remains the cornerstone of our immigration policy. It must be remembered that when the policy was introduced in 2004 it was with the unanimous support of all members of the Legislative Assembly and that there was little public opposition to it at that time. Indeed, the policy of imposing term limits on work permits had national support for almost ten years prior to its introduction. Furthermore, Vision 2008 proposed a minimum qualifying period of 15 years before a person should become eligible to apply for the grant of Permanent Residence and a minimum period of 18 years for the grant of Caymanian Status. The Foreign and Commonwealth Office were also of the view that our immigration dilemma stemmed from the lack of a policy regarding work permits.

When the Leader of Government Business introduced a broad range of amendments to our immigration law in 2006 he encapsulated the critical importance of the term limit policy:

“the Government, after the most careful consideration, has concluded that the choice for Cayman is stark: either we retain a system designed to reduce the number of people who are able to stay here indefinitely and become part of the permanent population with all the attendant rights and privileges that must go hand in hand with long term tenure, or we concede that in ten years or less, the control of the destiny of these beloved Islands will be vested in persons who were not born here. For this Government and we believe for the vast majority of Caymanians, the latter result is wholly undesirable and unacceptable”.

Since the term limit policy has been in effect we have heard the concerns that it is negatively impacting business. But we have also conducted our own assessments and our data suggests that the Term Limit Policy is achieving its purpose. That is, to reduce the number of persons who qualify for permanent residence while at the same time allowing personnel who are key to a company’s operations to be able to remain longer and become eligible to apply for permanent residence. I can tell you that in the period from August 2007 until April 2008 the Business Staffing Plan Board approved 75 percent of applications for key employee status. With respect to your industry, key employee status has been granted to Accountants, Chief Financial Officers, Financial Controllers, Senior Account Managers, Finance Managers and Account Supervisors. Of course this does not mean that all persons with these titles will be granted Key Employee status, what is critical is the importance of that person to that particular company. Our data shows that the numbers of work permit holders employed in professional occupations has increased by 49% since the Term Limit policy was introduced on 1 January 2004. I can also tell you that the number of work permits issued to persons to be employed as accountants has also increased from 365 to 709 in the same period -- an increase of 94%. I think it is clear therefore that we have not suffered the predicted loss of professionals and in fact, quite the opposite has occurred.

It was also interesting to hear a report on the Bermuda rollover experience recently from Mr. Doug Soares, a management consultant resident in Bermuda. In a presentation to the

Cayman Islands Human Resources Society Mr. Soares noted that the predicted negative effects of the term limit policy in Bermuda have not materialized. To the contrary, the international business sector has flourished; there has been no brain drain; there has been no exodus of foreign labour and no loss of international business. Indeed, one of the positive consequences of the term limit policy is that businesses now conduct better human resources planning.

I should also point out that Cayman's rollover policy is arguably better than Bermuda's for business. The term limit here is seven years, after which the person must leave for one year; in Bermuda it is six years after which the person must leave for two years. If a person is granted key employee status in Cayman they will become eligible to apply for permanent residence, naturalization and ultimately the right to be Caymanian; in Bermuda a person granted key employee status will never acquire the right to permanent residence or Bermudan status – key employee status simply means that work permits may continue to be granted in the person's favour indefinitely. They will never acquire any greater security of tenure than a work permit.

Although I have focused on what the Department has done in response to a changing business environment I must emphasise that this is an ongoing process. And I go back to what I said earlier: the Immigration Department is committed to working in partnership with the private sector. I encourage you to bring your concerns and you can be assured that we will listen to them.

I thank you for the opportunity to address your society. And wish you all continued success.

Thank You