

STANDING COMMITTEE REPORT NO. 15-150

RE: C. R. NO. 15-87/EX. AFF.

SUBJECT: PRESIDENTIAL COMMUNICATION NO.15-124

OCTOBER 1, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fifth Regular Session, 2008

Dear Mr. Speaker:

Your committee on External Affairs to which assigned Presidential Communication No. 15-124, pertaining to C.R. No. 15-87 entitled:

"A RESOLUTION RATIFYING THE CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS.",

begs leave to report as follows:

This is a long standing United Nations treaty that sets forth certain immunities from local law for United Nations agencies and their employees. UN agencies which are contemplating expanding operations in the FSM are demanding that the FSM ratify this convention before expanding their presences or initiating new programs.

This matter was presented by the Department of Foreign Affairs as an urgent one. In response, your committee held a public hearing on May 20, 2008. Witnesses included Secretary of Foreign Affairs Lorin Robert, Assistant Secretary Kandi Eleisar, FSM Ambassador to the US Yosiwo George and a number of staff from the Department of Foreign affairs. Also present was Assistant Attorney General Timoci Romanu for the Department of Justice.

Secretary Robert testified that the convention was needed in order to expand the FSM's relations with UN agencies. Ambassador George concurred, and drawing on his experience as Ambassador to the UN, stated that this was a normal convention for countries to accede to and he was surprised we have not done so. The Foreign affairs staff testified that there is no surprise with this convention. As a matter of fact, there is already domestic FSM law granting privileges and immunities to international agencies.

Your committee does not have any problems with the intent and purpose of the convention. Your committee's concerns relate to the consistency between domestic law and the proposed convention. Asked about that issue, the representative of the Department of Justice indicated that

STANDING COMMITTEE REPORT NO. 15-150

RE: C. R. NO. 15-87/EX. AFF.

SUBJECT: PRESIDENTIAL COMMUNICATION NO.15-124

OCTOBER 1, 2008

"there were no major contradictions" between the convention and domestic law. Queried whether there were minor contradictions, the representative from Justice requested time to submit something to the committee.

Senator Halbert asked whether FSM citizens are subject to the convention insofar as immunity from FSM's taxes was concerned, Secretary Robert testified it was his understanding that FSM citizens employed by the UN would be subject to the convention and are therefore immune from tax, but would defer to DOJ. Senator Urusemal requested that the Department of Justice submit its opinion to the committee by May 26.

On September 29, 2008 the requested opinion came to Congress, first in the form of a memorandum addressed to the Chairman of External Affairs from Assistant Attorney General Romanu countersigned by the Secretary of Justice and dated May 26, 2008. That memorandum was superseded several hours later with another memorandum with the same signatories but dated September 24, 2008. The latter memorandum is attached to this report.

The memorandum stated on page 2 that "the provision of the convention does not in any way violate national laws." page 2. It also stated on page 1 that "the existence of Presidential Order No.8 [granting certain privileges and immunities to international organizations] does not in any way conflict with Congress acceding to the Convention on Privileges and Immunities of the United Nations."

The memorandum, moreover, analyzed the situation of FSM citizen employees of UN agencies and stated that "the only time FSM nationals may be rendered full privileges and immunities under this convention is when they are representing the FSM in UN convention." Page 2. In that respect FSM citizens who are employed by UN agencies are subject to the domestic laws on taxation, specifically the wages and salaries tax.

With that AG opinion, your committee is satisfied that there is no impediment to the FSM acceding to this convention, and recommends adoption of C.R. No. 15-87.

STANDING COMMITTEE REPORT NO. 15-150

RE: C. R. NO. 15-87/EX. AFF.

SUBJECT: PRESIDENTIAL COMMUNICATION NO.15-124

OCTOBER 1, 2008

Respectfully submitted,

/s/ Paliknoa K. Welly
Paliknoa Welly, chairman

Tiwiter Aritos, vice chairman

/s/ Tesime Kofot
Tesime Kofot, member

Isaac V. Figir, member

/s/ Dion G. Neth
Dion G. Neth, member

/s/ Resio S. Moses
Resio S. Moses, member

/s/ Setiro Paul
Setiro Paul, member