

STANDING COMMITTEE REPORT NO. 16-130

RE: C.R. NO. 16-115/R&D

SUBJECT: RATIFICATION OF THE AMENDMENT TO THE NAURU AGREEMENT

JANUARY 27, 2011

The Honorable Isaac V. Figir  
Speaker, Sixteenth Congress  
Federated States of Micronesia  
Sixth Regular Session, 2011

Dear Mr. Speaker:

Your Committee on Resources and Development, to which was referred C.R. No. 16-115, entitled:

"A RESOLUTION RATIFYING THE AMENDMENT TO THE NAURU AGREEMENT AGREED TO BY THE PARTIES AT THE TWENTY-NINTH ANNUAL MEETING OF THE PARTIES TO THE NAURU AGREEMENT ON APRIL 22, 2010.",

begs leave to report as follows:

The intent and purpose of the resolution are expressed in its title.

In Presidential Communication No. 16-260, the President has transmitted C.R. No. 16-115 requesting Congress to ratify it. Enclosed with P.C. No. 16-260 is a copy of the actual Amendment to the Nauru Agreement. The Amendment consists of changing the language of article V of the Nauru Agreement, to include a language that establishes the PNA Office. Originally, article V of the Nauru Agreement provides that the PNA shall seek assistance from the South Pacific Forum Fisheries Agency (FFA) in providing secretariat services in implementing the Nauru Agreement. Thus, said resolution is to ratify the Amendment to the Nauru Agreement to give effect to the establishment of a PNA Office.

The Parties to the Nauru Agreement in its twenty-ninth annual meeting in Majuro, Republic of the Marshall Islands on April 22, 2010 met and agreed to establish a PNA Office to be situated in the Republic of the Marshall Islands. The Parties agreed that this PNA Office will act as a conduit for the Parties for the enhancement of fish stock,

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especially its commercial value. The PNA Office will be legally recognized and imbued with certain rights, privileges and immunities as may be determined by agreement between the Parties and the host country.

The Office will be vested with the function to support the Parties in developing and coordinating commercial programs and activities, developing strategic fisheries conservation and management initiatives, and administering PNA management initiatives on behalf of the Parties.

Your Committee on Resources and Development held a hearing on the said resolution on January 17, 2011. Witnesses present at the hearing included Acting Executive Director of the National Oceanic Resource Management Authority (NORMA) Mr. Eugene Pangelinan along with two staff members from NORMA, Miss Patricia Jack and Rhea Christian. Members of the Committee that were present included Chairman Roger Mori, Senators Tony Otto, Paliknoa K. Welly, Joseph J. Urusemal, Dion G. Neth, Peter Sitan and staff Alik Jackson.

Acting Executive Director Mr. Pangelinan informed your Committee that since the Nauru Agreement is a treaty, any amendments thereto need to be ratified by Congress. Thus, all parties are required to ratify this amendment. Your Committee inquired with him how many members had ratified this amendment. Mr. Pangelinan stated that the Republic of the Marshall Islands had already ratified this amendment. Your Committee further inquired with Mr. Pangelinan what happens if one party does not ratify this amendment. Mr. Pangelinan explained that the purpose of the amendment is to allow the PNA Office to be legally recognized as a legal entity, and therefore, all Parties are required to participate in this ratification process.

Your Committee also inquired with Mr. Pangelinan whether there would be a membership fee required if Congress ratifies this amendment. The response was negative, because the budget of the PNA Office is approved by the members of the PNA. In addition, the PNA Office generates its own revenue, and may utilize the services of the Forum Fisheries Agency (FFA). Few of the members of the PNA have already contributed in-kind contributions to assist in the establishment of the Office.

Your Committee is concerned whether the PNA Office will function like the National Fisheries Corporation (NFC) because one of the functions of the PNA Office is to assess the commercial aspect of our fish

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stocks. Another concern that was raised by the Committee is whether the host country, the RMI, has a long term commitment to offer the office space. Mr. Pangelinan commented that this issue needs to be further discussed with the host country. Your Committee also inquired with Mr. Pangelinan what happen if a party renders assistance to the PNA Office, i.e. membership fee, is this another requirement to amend the Nauru Agreement? Since this is a treaty, any amendments to the text of the treaty need to be ratified by Congress.

On January 25, 2011, your Committee also conducted another hearing with staff from the National Oceanic Resource Management Authority (NORMA) to clarify certain issues. The first issue is whether the host country will provide the land free. On this issue, Mr. Pangelinan state that there is an agreement signed between the host country and the parties. In Article 4 of the agreement, the host country will try to assist the PNA office to acquire suitable serviced land for office premises. The second issue is whether the PNA Office will charge a fee to fishing vessels. Mr. Pangelinan clarified that the Office will charge a "conservation levy" for each purse seiner; however, this arrangement is valid for only a year and will be subject to review. Your Committee showed great concern that the amount that the PNA Office will realize on this conservation levy is too much, which is in the neighborhood of \$1,080,000 (180 purse seiners multiply by \$6,000 a conservation fee amount). This money is deposited in a PNA Office account. Your Committee further inquired on the purpose of the conservation levy. Mr. Pangelinan explained that this conservation levy is assisting the office in formulating strategic management for conservation program. Miss Rhea Christian commented that the conservation levy is a means to prevent member countries to appropriate a membership fee. Your Committee also inquired on the commercial activities of the PNA Office. Mr. Pangelinan indicated that some of the commercial activities include: a member country may want to join with foreign investors, and also the Office engages in marketing and processing. Your Committee urges NORMA to ensure that the PNA Office does charge additional fees on fishing vessel. Importantly, your Committee recommends that NORMA coordinate with the Department of Resources and Development on any commercial activities that would be anticipated by the PNA Office.

After hearing testimony on the said resolution, your Committee is in support of the ratification of this amendment. Your Committee would like to offer an amendment to the resolution as follows:

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1. Page 2, line 8 - delete "Fifth Regular Session, 2010", and insert "Sixth Regular Session, 2011," in lieu thereof.

Your Committee on Resources and Development is in accord with the intent and purpose of C.R. No. 16-115, as amended herein, and recommends its adoption in the form attached hereto as C.R. No. 16-115, C.D.1.

Respectfully submitted,

/s/ Roger S. Mori  
Roger S. Mori, chairman

/s/ Tony H. Otto  
Tony H. Otto , vice chairman

/s/ Peter M. Christian  
Peter M. Christian, member

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

/s/ Peter Sitan  
Peter Sitan, member

/s/ Joseph J. Urusemal  
Joseph J. Urusemal, member

/s/ Paliknoa K. Welly  
Paliknoa K. Welly, member