

STANDING COMMITTEE REPORT NO. 16-134

RE: C.R. NO. 16-03/EXAFF

SUBJECT: RATIFICATION OF THE STANDARD BASIC ASSISTANCE  
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 External Affairs (EXAFF), to which was referred C.R. No. 16-03, entitled:

"A RESOLUTION RATIFYING THE STANDARD BASIC ASSISTANCE  
AGREEMENT (SBAA) BETWEEN THE FEDERATED STATES OF  
MICRONESIA (FSM) AND THE UNITED NATIONS DEVELOPMENT  
PROGRAM (UNDP).",

begs leave to report as follows:

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

This Standard Basic Assistance Agreement is a standard agreement entered into between the UNDP and a UN member country in need of UN assistance. It was signed in December 2008. The purpose of the SBAA is to serve as the basis of cooperation between the UNDP and the FSM.

Your Committee on External Affairs conducted a hearing on the resolution on January 21, 2011. Witnesses at the hearing included Jane Chigiyal, Jackson Soram, Kandi Elieshar and Ricky Cantero. According to Mrs. Chigiyal, Congress needs to ratify this Agreement as it concerns the Joint Presence of the UN office in the Federated States of Micronesia. Currently, the Joint Presence Office situated in the Federated States of Micronesia has been in existence by virtue of the original UNDP SBAA which was signed and entered into in 1974 between the United States as the Administrator of the Trust Territory of the Pacific Islands (TTPI) and the UNDP. Since the FSM became an independent nation in 1986, there has been no agreement in place to serve as the basis of UN assistance in the FSM.

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Hence, despite the absence of this SBAA, the UN Joint Presence Office is still recognized by virtue of some legal documents: (1) the 1989 Presidential Order No. 8, which recognizes the United Nations and its agencies, offices and special bodies as international organizations; (2) the FSM ratification of the 1946 UN Convention on Privileges and Immunities; and (3) the 'Exchange of Letters' between the FSM and the UNFPA-agreeing that the SBAA shall apply mutatis mutandis and without prejudice to any pending or future discussions on activities, personnel and assets of the UNFPA in the FSM. Thus, the FSM continued to receive assistance from UNDP and other UN agencies.

What are the associated costs envisioned through this Agreement? There are two kinds of costs/contributions identified under the SBAA. The first is the UNDP's Government's Contribution to the Local Office scheme, to which the FSM is expected to contribute. The annual contribution ranges from \$25,000 to \$30,000, depending on the annual budget of the UNDP Local Office in Suva. Based on an existing formula and a waiver system, FSM pays two percent of the total cost of the UNDP office. For instance, in the year 2009 the FSM's contribution was almost \$23,000. The second is the FSM is the expected to participate in the implementation of projects. Accordingly, and based on the drafted project documents, the FSM may help with costs associated with the projects or provide in kind contributions towards implementation of projects.

What are the benefits associated with this Agreement? The UNDP and other UN agencies are implementing offices of the United Nations. Under existing Country Program Action Plans (CPAP) with the FSM, these various agencies provide assistance in many focal sectors including environment, health and education.

During the hearing, one of the concerns your Committee raised with the witnesses was whether local staff working for the UN Joint Presence Office in Pohnpei are not eligible for the privileges and immunities enjoyed by foreigners. Mrs. Chigiyal informed your Committee that citizens of foreign countries working in the UN Joint Presence Office are accorded the privileges and immunities; however, local staff cannot enjoy this treatment. According to Mrs. Chigiyal this is substantiated by a legal opinion issued from the FSM Department of Justice. Your Committee further asked whether the staff at our Embassies enjoy these same privileges and immunities. The answer was yes they are accorded the same privileges and immunities.

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Your Committee would like to make the following amendments to the resolution:

1. Page 1, line 1, delete "recognizing" and insert "recognizes".
2. Page 1, line 3, delete "economical" and insert "economic" in lieu thereof.
3. Page 1, line 7, delete "as" and insert "in" in lieu thereof.
4. Page 1, line 10, delete "desiring" and insert "desires" in lieu.
5. Page 2, line 2, delete "First Regular Session, 2009" and insert "Sixth Regular Session, 2011" in lieu thereof.
6. Page 2, line 4, after "UNDP;" insert "and",

Your Committee on External Affairs is in accord with the intent and purpose of C.R. No. 16-03, as amended herein, and recommends its adoption in the form attached hereto as C.R. No. 16-03, C.D.1.

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Respectfully submitted,

/s/ Paliknoa K. Welly  
Paliknoa K. Welly, chairman

/s/ Tiwiter Aritos  
Tiwiter Aritos, vice chairman

Isaac V. Figir, member

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

Dohsis Halbert, member

Setiro Paul, member

/s/ Joe N. Suka  
Joe N. Suka, member