

STANDING COMMITTEE REPORT NO. 17-14

RE: C.R. NO. 17-15/EX AFF

SUBJECT: UNITED NATIONS PROTOCOL TO PREVENT,  
SUPPRESS AND PUNISH TRAFFICKING IN  
PERSONS, ESPECIALLY WOMEN AND CHILDREN.

AUGUST 04, 2011

The Honorable Isaac V. Figir  
Speaker, Seventeenth Congress  
Federated States of Micronesia  
First Special Session, 2011

Dear Mr. Speaker:

Your Committee on External Affairs, to which was referred C.R. No. 17-15, entitled:

"A RESOLUTION TO RATIFY THE UNITED NATIONS PROTOCOL TO  
PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS,  
ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED  
NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME.",

begs leave to report as follows:

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

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, is a supplement to the United Nations Convention against Transnational Organized Crime, to which the Federated States of Micronesia acceded in 2004. The Protocol has been in effect since 2003, and commits state parties to adopt a number of legislative and other measures to prevent and combat trafficking in persons, to protect and assist the victims of such trafficking, and to facilitate international cooperation to meet these objectives.

In particular, parties to the Protocol commit to the adoption of legislation to:

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1. establish human trafficking as a criminal offense;
2. establish attempting to commit human trafficking as a criminal offense;
3. establish participating as an accomplice in human trafficking as a criminal offense;
4. establish organizing or directing others to commit human trafficking as a criminal offense;
5. make legal proceedings relating to human trafficking confidential;
6. provide for the consideration of the views and concerns of human trafficking victims during criminal proceedings; and
7. permit victims to seek compensation for damage suffered.

A public hearing was held by this Committee in Palikir on July 28, 2011, and was attended by representatives of the Department of Foreign Affairs, the Department of Justice, and the Office of the President, who recommended that the FSM become a party to the Protocol.

Members of the Committee expressed concerns about the level of governmental commitment to tackle the issue of trafficking in persons, and in particular the inadequate enforcement of existing applicable laws. They also questioned why the Government had not proposed any legislation on this issue. The Secretary of the Department of Justice responded that the Protocol had to be ratified before any legislation could be enacted.

However, the Committee is satisfied that the Government's support for the Protocol is motivated by a genuine desire to address this important issue, and believes that accession to the Protocol is a significant step in recognizing the issue as part of our Nation's commitment to human rights.

Your Committee notes that the Protocol is closed for signature and that the Federated States of Micronesia would therefore become a party through accession rather than ratification. It further notes that many parties to the Protocol, including the United States, have chosen not to be bound by its dispute resolution provisions, which grant compulsory jurisdiction to the International Court of Justice, and your Committee recommends that the Federated States of Micronesia make

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a similar reservation. Your Committee therefore recommends the following changes:

1. Title, line 1, delete "ratify" and insert "accede to" in lieu thereof.
2. Page 2, line 5, delete "ratifies" and insert "accedes to" in lieu thereof.
3. Page 2, between lines 8 and 9, insert "BE IT FURTHER RESOLVED that accession to the Protocol is subject to the following reservation: The Federated States of Micronesia, in accordance with Article 15, paragraph 3, declares that it does not consider itself bound by the obligation set forth in Article 15, paragraph 2; and".

Your Committee on External Affairs is in accord with the intent and purpose of C.R. No. 17-15, as amended herein, and recommends its adoption in the form attached hereto as C.R. No. 17-15, C.D.1.

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Respectfully submitted,

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

/s/ Tiwiter Aritos  
Tiwiter Aritos, vice chairman

/s/ Isaac V. Figir  
Isaac V. Figir, member

Berney Martin, member

/s/ Tony H. Otto  
Tony H. Otto, member

/s/ David W. Panuelo  
David W. Panuelo, member

Wesley Simina, member