

STANDING COMMITTEE REPORT NO. 17-150

RE: C.R. NO. 17-114/R&D

SUBJECT: A RESOLUTION TO RATIFY THE NAGOYA  
PROTOCOL

SEPTEMBER 28, 2012

The Honorable Isaac V. Figir  
Speaker, Seventeenth Congress  
Federated States of Micronesia  
Fifth Regular Session, 2012

Dear Mr. Speaker:

Your Committee on Resources and Development, to which was  
jointly referred C.R. No. 17-114, entitled:

"A RESOLUTION TO RATIFY THE NAGOYA PROTOCOL ON ACCESS  
TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING  
OF BENEFITS FROM THEIR UTILIZATION TO THE CONVENTION ON  
BIOLOGICAL DIVERSITY.",

begs leave to report as follows:

The said resolution was introduced during the Third Regular  
Session of the FSM Congress and was not acted upon. It is  
jointly assigned to the Committees on Resources and  
Development and External Affairs.

On September 26, 2012, there was a joint public hearing on  
the Nagoya Protocol by your Committee on Resources and  
Development and External Affairs. In attendance were Alisa  
Takesy, Acting Secretary of the Department of Resources and  
Development, Kandhi Elieisar, Acting Secretary of the  
Department of Foreign Affairs, Johnson Asher, Acting  
Secretary of the Department of Justice, two Assistant  
Attorney Generals, Jun Bacalando and Lorrie Asher and the  
President's representatives Semeon Phillip and Churchill  
Edward.

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During the hearing, your Committee learned that the FSM has already signed the protocol on ABS at the CBD's Tenth Conference of Parties in Nagoya, Japan in 2010. There were ninety-two (92) parties that signed the protocol and it remained open for signature until February 1, 2012. Out of the 92 that signed the protocol, five countries ratified it. The Republic of Palau, the Federated States of Micronesia, and Vanuatu had signed the protocol. If Congress ratifies this protocol, the FSM will be the first from the Pacific Island Countries to ratify it. The Nagoya Protocol will enter into force 90 days after the date of deposit of the fiftieth instrument of ratification.

The importance of the Nagoya Protocol is the access to genetic resources, transfer of relevant technologies from developed countries to developing countries taking into account all rights over those resources and to technologies, and appropriate funding available from Global Environmental Facility (GEF). It also provides for the sharing of benefits from such measures and the protection of the resources as intellectual property rights.

At the hearing, your Committee learned that on June 20, 1994, the FSM became a party to the Convention on Biological Diversity (CBD). Under the CBD, the parties need to fulfill three objectives: (1) conservation of biodiversity, (2) sustainable use of its components, and (3) the fair and equitable sharing of benefits arising out of the utilization of genetic resources. In respect to the first and second objectives, the FSM has done much in the way of progress with them. But on the third objective, there is very little progress.

Currently, the FSM Department of Resources and Development is the focal point to implement the third objective of the CBD with respective counterparts designated in the States. At the moment, the department is operating on the Bonn Guidelines, which parties adopted in September 2002. The Bonn guidelines are steps to guide parties in establishing legislative, administrative or policy measures on access and benefit sharing or when negotiating contractual arrangements

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for access and benefit sharing. However, these guidelines are not legally binding.

Currently, the FSM has no specific ABS legislation and therefore needs to develop its national legislation if it becomes a party to the Nagoya Protocol. After the ratification process, parties need to enact legally binding arrangements for both providers and uses of genetic resources to protect them from biopiracy.

Furthermore, parties are obliged to follow other parties relevant domestic legislations, provide contractual obligations in mutually agreed terms and come up with provisions on access to traditional knowledge (innovations and practices) associated with genetic resources.

It was discussed during the hearing that the FSM will benefit from this protocol because genetic resources are abundant in this nation, and safeguarding these genetic resources from biopiracy is important. It may be to late, but there is a need to promote and safeguard genetic resources in this nation. In addition, if the protocol contradicts the provisions of the FSM Constitution, then the FSM can withdraw from the CBD.

At the hearing, your Committee learned that the State Governments have raised concerns that the National Government is not promoting and safeguarding their genetic resources since the genetic resources of this nation are located in each of the States. In this respect, your Committee encourages the witnesses that the National Government needs to coordinate with the States in promoting and safeguarding their genetic resources at the same time provide technical assistance to strengthen their innovations and practices associated with genetic resources.

Your Committee, therefore, offers the following amendments to the resolution as follows:

1. Page 2, line 9, delete "Third", and insert "Fifth" in lieu thereof.
2. Page 2, line 16, after "Micronesia", insert ",the

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Governor of each State".

Your Committee on Resources and Development is in accord with the intent and purpose of C.R. No. 17-114, and recommends its adoption in the form attached hereto as C.R. No. 114, C.D.1, subject to the concurrence by the Committee on External Affairs.

