

STANDING COMMITTEE REPORT NO. 16-22
RE: C.R. NO. 16-10/EX. AFF.
SUBJECT: PRESIDENTIAL COMMUNICATION NO. 16-15
SEPTEMBER 23, 2009

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Second Regular Session, 2009

Dear Mr. Speaker:

Your Committee on External Affairs to which assigned Presidential Communication No. 16-15, pertaining to C.R. No. 16-10 entitled:

"A RESOLUTION RATIFYING THE CONVENTION ON THE PROHIBITION OF THE USE, STOCKPILING, PRODUCTION AND TRANSFER OF ANTI-PERSONNEL MINES AND ON THEIR DESTRUCTION.",

begs leave to report as follows:

C.R. No. 16-10 is a resolution requesting FSM Congress to accede to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction.

Pursuant to Presidential Communication No. 16-15, by acceding to this Convention FSM will assist other state parties to this Convention in the minimizing of suffering and casualties caused by anti-personnel mines. In doing so, FSM will be a part of the international humanitarian move to ban AP mines, destruct stockpiling of AP mines, participate in the clearing of mined areas and provide assistance to mine victims.

Your Committee held a public hearing on this resolution on September 15, 2009. Witnesses included Secretary of Foreign Affairs Lorin S. Robert, Deputy Secretary Jane Chigiyal, Deputy Assistant Secretary Jackson Soram, Deputy Assistant Secretary Ricky Cantero and a number of staff from the Department of Foreign affairs. Also present were two Assistant Attorney General from the Department of Justice, Pole Atanraoi and Danny Rescue Jr.

Secretary Robert informed your Committee that the FSM would have acceded to the said Convention in 1997 or 1999. This delay is caused by the need of the responsible staff to review the relevant provisions in the compact treaty to see whether acceding to this Convention would not be a violation of FSM's obligation under the Compact. The Committee had inquired whether FSM had already communicated to the US side in this respect. Secretary Robert indicated that there is no formal communication, however, through several correspondences with the United States on this particular Convention, United States has indicated that FSM can become a member to this Convention. Furthermore, pursuant to a Memorandum from the then Ambassador Marehalau to the home office, FSM accession to this Convention is not

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a problem pursuant to the Embassy's consultation with the US counterpart.

The Committee also inquired why FSM waited this long to accede to this Convention. Assistant Attorney General Pole commented that FSM waited for the United States to concur on FSM's accession to the Convention. As aforementioned, for humanitarian reason, FSM needs to accede to this Convention to be among the 156 countries that are parties to this Convention.

It is understood that FSM is a mine-free country. During the hearing, the Committee was informed that the FSM needs to align its laws to conform to this Convention and ensure that needed legislations should be enacted to accommodate FSM's obligations under the Convention. The Committee further inquired with the Assistant Attorney General Pole, what if certain articles in the Convention are in conflict with our FSM Constitution, which one will prevail. The Assistant Attorney General Pole indicated that even before FSM wishes to accede to a convention, the Department of Justice needs to review that FSM laws are not in conflict with any Convention.

One of the witnesses at the hearing testified that pursuant to Article III of the Compact, as amended, FSM accession to this Convention conforms with Article III. Article III (b) of the Compact, as amended states, in part, *"Any...international security agreement to which the Government of U.S. is or may become a party which it determines to be applicable in the FSM. Such a determination by the Government of the U.S. shall be preceded by appropriate consultation with the Government of FSM."* By virtue of the consultation between the US and the FSM as was mentioned in Ambassador's Marehalau's memorandum, there is no problem in acceding to this Convention.

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.

Furthermore, the Committee would like to know whether "sea mines", like the sunken ships in the Chuuk lagoon can be considered as land mines under the Convention. Secretary Robert indicated that the relevant authorities need to resolve this issue on "sea mines".

The Committee also inquired whether FSM citizens are subject to the convention insofar as sending FSM citizens to assist in the clearing of land mines. Secretary Robert testified that his understanding is that "if FSM is in a position to do so" it may request other state parties to the extent possible.

Your Committee is satisfied that there is no impediment to the FSM

