

Testimony of His Excellency Hersey Kyota,
Ambassador of the Republic of Palau to the U.S.
Senate Committee on Energy and Natural Resources
Room SD-36 Dirksen Senate Office Building
S. Bill 1830
26 October 2005
Washington, D.C.

Good morning Mr. Chairman and distinguished Members of the Senate Energy and Natural Resources Committee. It is indeed an honor and privilege for me to appear and testify before your Committee.

Mr. Chairman, before I continue, I would like to take this opportunity to thank you and your colleagues for inviting me to this important hearing this morning. On behalf of President Remengesau and the people of Palau, I would also like to convey our special appreciation and gratitude to you Mr. Chairman and members of this Committee for your continued support and assistance to the Government and people of Palau.

Mr. Chairman, per your request, I will limit my testimony to S. 1830, which is an Act to amend the Compact of Free Association Amendments Act of 2003, and for other purposes. There are two amendments in S.1830 that pertain to Palau and they are found in Sections 4 and 5.

In section 5, the availability of legal services would be extended to citizens of Palau residing in the United States, including its territories and possessions. This amendment provides the same eligibility and treatment to the citizens of the three Freely Associated States, namely, the Republic of Palau, Federated States Micronesia and Republic of Marshall Islands. We support and welcome this amendment.

At a glance, Section 4 seems to offer extension of education grants to Palau, but further review indicates that the amendment extends eligibility of the citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who are attending institutions of higher learning in the FSM, RMI, United States and its territories and the Republic of Palau until 2023. The eligibility for citizens of Palau for federal education programs, which include the Head Start Program and elementary, secondary and post secondary education will expire or discontinue in 2007. This is unacceptable Mr. Chairman.

Under the Compact of Free Association between the United States and the Republic of Palau, entered into force on October 1, 1994, the government of the United States has a pre-existing obligation, and that obligation is to fund education programs, and other programs for that matter, to Palau for the duration of our Compact's financial provisions, which is fifteen years. That Compact ends in 2009, not 2007. Your

amendment therefore falls two full years short of the fifteen-year duration of the Compact between our two nations. I appear before you today to reiterate our request to Congress to extend educational grants to the government and people of Palau until 2009.

Mr. Chairman, we are not asking for new programs. We are simply asking that Congress extends these existing educational programs to Palau, as was bilaterally agreed by our two countries, for the duration of our Compact. After all, the same programs were provided to the FSM and the RMI during the complete duration of their first compacts, and were further extended to 2023 in their new compacts. We are merely asking for a fair and equitable treatment.

Mr. Chairman, there are two other requests that I wish to bring to your attention. I have addressed these requests in my letter of June 27, 2005 to you and Senator Bingaman. Allow me, Mr. Chairman, to reiterate them for the record and request the Committee to consider these items as amendments to S. 1830.

The first request has to do with 17 USC 111(e) (2), a U.S. Copyright Statute relating to the transmission of videotape programming. Prior to its independence in 1994, Palau, as a Trust Territory of the Pacific Islands, was permitted to transmit videotape programming through its cable system, along with Alaska, Hawaii, Guam and the Northern Mariana Islands. This privilege, for Palau and the other two Freely Associated States, is no longer permitted under Title 17 USC 111(e)(2). I believe that this was merely an oversight that occurred when the Freely Associated States changed status from Trust Territories to Freely Associated States. In fact, the failure of the Statute to include Freely Associated States just came to light when the company providing such services was sold and the issue was discovered by the new owner.

Transmittal of videotape programming can only be resumed if Congress amends this copyright statute. Mr. Chairman, both the United States and Palau benefit from the extension of such programming by further strengthening our cultural ties. Moreover, the U.S., in some instances, spends millions of dollars to expose or introduce its culture and way of life in other parts of the world. We are asking your government to permit us to expose and introduce the American culture and way of life in our country, free of charge, through videotape programming. You and members of this Committee can change the lives of so many people in Palau, FSM and RMI by correcting this oversight. I therefore appeal to you today to amend Title 17 and put videotape programming back into the living rooms of the people of all of the Freely Associated States.

The second request relates to the eligibility of our citizens to apply for merchant mariner's licenses for seamen or crew on U.S. flagged ships and cruise liners. This issue is governed under 46 CFR part 12. At the present, citizens of the three Freely Associated States are not eligible to apply for merchant mariner's documents, unless they are permanent legal residents or intended permanent legal residents of the U.S. or its territories and possessions. Given our status as Freely Associated States, with close

and special relationships with the U.S., where our citizens are permitted to work, study and reside in the U.S., including its territories and possessions, without visa requirements, our citizens should be eligible to apply for and be granted merchant mariner's licenses and associated documents.

Moreover, under our respective compacts, citizens of the Freely Associated States are eligible to serve, and many of our sons and daughters are actively serving, in the U.S. Armed Forces, including the U.S. Coast Guards. Given these facts, I respectfully request this Committee to include in S. 1830 an amendment to rectify this oversight, and to lawfully permit our citizens to apply for and obtain merchant mariner's licenses in order for them to work in U.S. flagged ships and cruise liners.

Like the above issue regarding videotape programming, I believe that the failure to permit the issuance of merchant mariner's licenses and documents is a mere by-products of our status change from that of a Trust Territory to a Freely Associated State. In other words, the necessary transitional amendment merely slipped through the cracks.

Statutes relating to both of these issues should have been amended to reflect our new political status with the United States. For example, the phrase "Trust Territory of the Pacific Islands" in Title 17 USC 111(e) (2) should have changed or amended to "Freely Associated States". I have personally come across a number of U.S. statutes that define Palau as "insular area" or "out laying area". Of course, those statutes were enacted before Palau became a Freely Associated State under the Compact of Free Association.

While I recognize that it is unnecessary to change every law on the books to reflect the current status of Palau, the FSM and the RMI, it is worth noting that privileges, rights and freedoms that were authorized under these statutes, which were not expressly forbidden in our respective Compacts of Free Association or recent acts of Congress, should continue in full force and effect.

It is very contradictory for our citizens to be allowed to join the U.S. Armed Forces, fight side by side with American comrades, sail on U.S. Navy and U.S. Coast Guard battleships, and even attend the U.S. Coast Guard Academy, and not be able to obtain merchant mariner's licenses from the U.S. Coast Guard. It is also very contradictory for the U.S. Government to represent Palau before the International Telecommunications Union (ITU) as mandated by the Compact and not permit Palau to transmit videotape programming through its cable system.

And more importantly, Mr. Chairman, good faith requires that educational grants agreed to in bilateral negotiations between our two countries extend through the duration of the resulting Compact of Free Association that guides our current relationship with one another. These grants must be extended through 2009 for the continuing health and educational welfare of our children. These grants are, and were,

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a critical component of the financial provisions of the Palau Compact, which end in 2009, not 2007.

Mr. Chairman and distinguished members of this Committee, these proposed amendments, which I have outlined, are non-controversial, straightforward, simple, necessary and urgent. I therefore respectfully request, on behalf of President Remengesau, the government and the people of Palau, your full support and assistance in incorporating these proposed amendments into S. 1830.

Mr. Chairman, if I may, I would like to acknowledge the support and assistance of your staff. You have a group of hard working and dedicated personnel in the company of Josh Johnson, Steve Waskiewics and Al Stayman, whom I worked closely with in addressing some of the issues concerning Palau.

Thank you very much.