

**STATEMENT
OF
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**BEFORE THE
HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR**

**REGARDING
H.R. 6040, TO APPROVE THE AGREEMENT PROVIDING TERMS FOR A CONTINUATION OF
THE FREE ASSOCIATION BETWEEN THE UNITED STATES AND PALAU
AND
H.R. 6147, TO DESIGNATE THE EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES AS
THE 'RONALD WILSON REAGAN EXCLUSIVE ECONOMIC ZONE FOR THE UNITED
STATES'**

SEPTEMBER 10, 2012

Chairman Fleming and members of the Subcommittee, I am pleased to be here today to discuss H.R. 6040 which would approve the agreement between the Government of the United States and the Government of the Republic of Palau following the Compact of Free Association section 432 review, and H.R. 6147 designating the U.S. Exclusive Economic Zone as the "Ronald Wilson Reagan Exclusive Economic Zone of the United States. My colleagues from the Departments of State and Defense will discuss the importance of the United States – Palau relationship as it relates to national security and our policies in the Pacific. My statement today regarding Palau will focus on the financial assistance components of the new agreement with Palau for which the Department of the Interior will be responsible.

**H.R. 6040
THE UNITED STATES – PALAU RELATIONSHIP**

The Department of the Interior and the Government of Palau have been partners since 1951, when the Navy transferred to the Department of the Interior the administration of the United Nations Trust Territory of the Pacific Islands. Since the end of World War II, Palau has emerged from its status as a war-ravaged protectorate to become a sovereign nation and member of the world community. Consistent with the provisions of the 1994 Compact of Free Association, Palau has exercised its sovereignty in accordance with the principles of democracy and in a firm alliance with the United States.

The Compact of Free Association has proven to be a very successful framework for United States – Palau relations. The goals of the first fifteen years of the Compact have been met: the trusteeship was terminated; Palau's self-government was restored; a stable democratic state was established; third countries were denied military influence in the

region of Palau; and with United States financial assistance, a base for economic growth has been provided.

The original financial terms and conditions of the Compact have been fully implemented by the United States and Palau. The United States, through the Department of the Interior, has provided over \$600 million of assistance including \$149 million used to construct the 53-mile road system on the island of Babeldoab and \$38.7 million for health care and education block grants. Most of the funding, \$400 million, was expended on activities defined under Title Two of the Compact, which included general government operations, energy production, communications, capital improvements, health and education programs and establishment of the Compact Trust Fund.

The Compact Trust Fund was an important feature of U.S. assistance. Capitalized with \$70 million during the first three years of the agreement in the 1990s, the objective of the trust fund was to produce an average annual amount of \$15 million as revenue for Palau government operations for the thirty-five year period fiscal year 2010 through fiscal year 2044. The fund also generated \$5 million in annual operational revenue for Palau since the fourth year of the agreement, totaling \$60 million for the years 1998 through 2009.

Palau has made strong economic gains under the Compact of Free Association. Its growth, in real terms, has averaged just over two percent per year. Palau's governmental services are meeting the needs of its community. Palau has taken control of its destiny and is moving in the right direction.

COMPACT REVIEW

As both the United States and Palau began the required Compact section 432 review several years ago, each side took pride in the growth evident in Palau. However, the review, which examined the terms of the Compact and its related agreements and the overall nature of the bilateral relationship, also focused attention on several important issues. The United States and Palau agreed that prospects for continued economic growth relied on four key factors: 1) the viability of the Compact trust fund and its ability to return \$15 million a year; 2) the implementation of fiscal reforms to close the gap between Palau's revenues and expenditures by shrinking its public sector and raising revenue; 3) the promotion of increased foreign investment and private sector growth, and, 4) the continuation of certain United States assistance, including access to United States Federal domestic programs and services.

From the perspective of the United States, the viability of the Compact Trust Fund was of paramount concern. The economies of Pacific islands are always fragile; their size, distance from markets and relative lack of resources make growth a perennial problem. Although Palau has some relative advantages in contrast to other Pacific island countries, the Compact Trust Fund was established with the intention of providing a relatively secure revenue base for Palau's government through fiscal year 2044. As the 15-year review began, Palau's trust fund, which had earned roughly 9 percent annually since its inception, had suffered significant losses. As GAO reported in 2008, it was uncertain

that the trust fund could pay \$15 million annually to the Government of Palau through fiscal year 2044.

COMPACT AGREEMENT

The condition of the Compact Trust Fund, the need for fiscal and economic reforms, and the goal of strengthening conditions for private sector growth became the focus of the bilateral review. The *Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review* (Agreement) that arose from the 15-year review, will address these concerns, maintain stability, promote economic growth and increase the progress already made under the Compact of Free Association.

The Agreement extends United States assistance, in declining annual amounts, through fiscal year 2024. The total of direct financial assistance to Palau under the Agreement is \$229 million, although \$26.2 million of that amount has already been appropriated for direct economic assistance by congressional action in fiscal year 2010 and in fiscal year 2011. An additional \$13.1 million in direct economic assistance has been appropriated to Palau in FY 2012.

Under the Agreement, in 2011 the United States was to provide Palau \$28 million, of which \$13 million is the aforementioned direct assistance. The amount will decline every year thereafter. The declining amount of assistance is intended to provide an incentive for Palau to develop other sources of local revenue and serves notice that the Palauan government has agreed that it will need to make systemic adjustments to its government in order to live within those same resources.

The Agreement contains five categories of financial assistance for Palau. Although I will discuss the Agreement as written, I note that H.R. 6040 appropriately shifts funding from the originally stated fiscal years to allow for implementation in the current year.

Direct economic assistance. The Agreement provides for direct assistance for education, health, administration of justice and public safety, in amounts starting at \$13 million in 2011, declining to \$2 million, the last payment, in 2023. As discussed below, this “glidepath” is coupled with a gradual increase in how much Palau can withdraw from its trust fund. The timing of direct assistance payments is conditioned on Palau’s making certain fiscal reform efforts. If the United States government determines that Palau has not made meaningful progress in implementing meaningful reforms, direct assistance payments may be delayed until the United States Government determines that Palau has made sufficient progress on the reforms.

Infrastructure projects. Under the Agreement the United States is to provide grants to Palau for mutually agreed infrastructure projects—\$8 million in 2011 through 2013, \$6 million in 2014, and \$5 million in both 2015 and 2016. The Agreement does not name any projects.

Infrastructure maintenance fund. Under the Agreement, a trust fund will be established to be used for maintenance of capital projects previously financed by the United States, including the existing Compact Road. From 2011 through 2024, the United States government will have contributed \$2 million annually and the Palau government will contribute \$600,000 annually to the fund. This will protect crucial United States investments in Palau that significantly contribute to economic development.

Fiscal consolidation fund. The United States will have provided grants of \$5 million each in 2011 and 2012 to help the Palau government reduce its debt. United States creditors must receive priority, and the government of Palau must report quarterly on the use of the grants until they are expended. This fund will also simplify needed economic adjustments to Palau’s fiscal policies.

Trust fund. The Agreement increases the size of Palau’s trust fund directly and indirectly to bolster the likelihood that the trust fund will yield payments of up to \$15 million annually through 2044. First, the United States will contribute \$3 million annually from 2013 through 2022 and contribute \$250,000 in 2023. Second, the government of Palau will delay withdrawals from the fund, drawing \$5 million annually through 2013 and gradually increasing its withdrawal ceiling from \$5.25 million in 2014 to \$13 million in 2023. From 2024 through 2044, Palau is expected to withdraw up to \$15 million annually, as originally scheduled. Under the Agreement, withdrawals from the trust fund may only be used for education, health, administration of justice and public safety.

RECOMMENDED CHANGES

We recommend several changes to the bill.

At present, the subsidy for the United States Postal Service (USPS) is a partial subsidy for domestic postage. The Agreement permits the USPS, under certain conditions, to impose international postal rates in the future. A subsidy would still be necessary in that event. Thus, in the amending language we recommend striking the language “so long as domestic postage may be used for mail to Palau, the Federated States of Micronesia, and the Marshall Islands” from the second sentence of subsection 105(e).

Additionally, in order to facilitate financing of the agreement we would recommend including the following language in the bill:

FUNDING FOR CERTAIN PROVISIONS UNDER
SECTION 105 OF COMPACT OF FREE ASSOCIATION.—On
the date of enactment of this section, out of any funds
in the Treasury not otherwise appropriated, the Secretary
of the Treasury shall transfer to the Secretary of the

Interior such sums as are necessary for the Secretary of the Interior to implement sections 1, 2(a), 3, 4(a), and 5 of the Agreement, which sums shall remain available until expended without any further appropriation.

Furthermore, in the amending language that would insert a paragraph (2) of subsection 105(f), the Secretary of the Interior would be required to submit an annual report to committees of jurisdiction on the effectiveness of assistance to Palau under certain United States domestic programs. We recommend that the consultation provision be amended to require Federal agencies that administer such programs to submit annually to the Secretary of the Interior appropriate material ready for inclusion in the reports.

CONTINUING COOPERATION

The United States and Palau will work cooperatively on economic reform. The Agreement requires the two governments to establish an advisory group to recommend economic, financial and management reforms. Palau is committed to adopting and implementing reforms. Palau will be judged on its progress in such reforms as the elimination of operating deficits, reduction in its annual budgets, reducing the number of government employees, implementing meaningful tax reform and reducing subsidies to public utilities.

Palau's progress in implementing reforms will be addressed at annual bilateral economic consultations. If the government of the United States determines that Palau has not made significant progress on reforms, the United States may delay payment of economic assistance under the Agreement.

The Agreement also continues to provide Palau with access to other United States services and grant programs, including the United States Postal Service, the National Weather Service, and the Federal Aviation Administration. The Postal Service moves mail between the United States and Palau, and offers other related services. Palau maintains its own postal service for internal mail delivery. The National Weather Service reimburses Palau for the cost of operating its weather station in Palau, which performs upper air observations twice daily, as requested, for the purpose of Palau's airport operations and the tracking of cyclones that may affect other United States territories, such as Guam. The Federal Aviation Administration provides aviation services to Palau, including en-route air traffic control from the mainland United States, flight inspection of airport navigation aids, and other services.

The proposed legislation will also allow the continuance of other Federal program services currently available to Palau under separate authorizing legislation, including programs of the Departments of Education and Health and Human Services. The general authorization for Palau to receive such services was created by the Compact, but individual program eligibility has been created by specific laws that include Palau as an eligible recipient.

OFFSETS

The Palau Compact legislative proposal does have PAYGO costs. In the past, the Administration proposed a number of offsets to fund the Palau legislation, including:

- Net Receipt Sharing, which takes into account the costs of managing Federal oil and gas leases before revenues are shared with the States;
- Terminate payments for reclaiming abandoned coal mines to states that are already certified as having cleaned up all of their priority sites; and
- Production incentive fees on non-producing Federal oil and gas leases.

Each example by itself could provide more than enough savings to offset the costs of the Palau Compact. Net Receipt Sharing, for example, which has been enacted for five years through annual appropriations language, would be more than sufficient to offset the cost.

H. R. 6040 would provide for an offset to fund the Palau agreement. The Administration is still reviewing the specific language of that provision.

The Administration looks forward to continuing the United States partnership with Palau. The Department of the Interior is proud of the positive advancements United States assistance has achieved in Palau since 1995 and looks forward to the progress that we anticipate will be made over the period of the new agreement.

H.R. 6147

The Exclusive Economic Zone (EEZ) of the United States is a zone contiguous to the territorial sea of the United States, which generally extends 200 nautical miles from the U.S. coast line, unless it would extend into or overlap with a 200 EEZ of an adjacent nation. The EEZ applies to waters adjacent to the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (consistent with the Covenant and UN Trusteeship Agreement), and United States territories and possessions. The U.S. EEZ is the largest in the world, spanning over 13,000 miles of coastline and containing 3.4 million square nautical miles of ocean—larger than the combined land area of all fifty states.

The 200 nautical mile EEZ was established by President Reagan through Proclamation 5030 of March 10, 1983, which affirmed that within the EEZ, the U.S. had sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, whether living and nonliving, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds. The Proclamation also affirmed that the U.S. had jurisdiction as provided for in international law with regard to the establishment and use of artificial islands, installations, and

structures, marine scientific research, and the protection and preservation of the marine environment, and other rights and duties provided for under international law. Many government agencies, including the Department of the Interior and its bureaus, carry out functions in the EEZ.

H.R. 6147 would designate the EEZ as the “Ronald Wilson Reagan Exclusive Economic Zone of the United States”. The bill would deem any reference to the EEZ in a law, map regulation, document, paper, or other record of the United States to be a reference to the “Ronald Wilson Reagan Exclusive Economic Zone of the United States”. Although the geographical range of the EEZ is relevant to certain elements of the Department’s jurisdiction, the naming of the EEZ does not affect any of the Department’s existing authorities or programs. The Department notes that it is not aware of any precedence for a designation of this type. Therefore, the Department takes no position on H.R. 6147.