

THIRD INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean regional seminar on the implementation of the Third International Decade
for the Eradication of Colonialism: goals and expected accomplishments

Kingstown, Saint Vincent and the Grenadines
31 May to 2 June 2011

STATEMENT

BY

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**Written Statement of American Samoa Government
For the Honorable Togiola T.A. Tulafono
Governor of American Samoa
By Lelei Peau, Deputy Director of Commerce
A United Nations Caribbean Seminar on the Eradication of Colonialism
Kingstown, Saint Vincent and the Grenadines, 31 May to 2 June 2011**

Mr. Chairman, Members of the Committee, Ladies and Gentlemen: thank you for the invitation to address you here today on American Samoa's experience as a non self-governing territory. I am presenting here today on behalf of our Governor, the Honorable Togiola T.A. Tulafono.

This Committee has observed the progress of American Samoa towards self governance and self determination as a possession of the United States for many years.

In the past, American Samoa has asked this committee to remove American Samoa from the list of colonized territories because we felt our unincorporated and unorganized status was akin to being self governing. (By "unincorporated" we mean that not all of the laws of the US apply to American Samoa, and by "unorganized" we mean that the US has never enacted legislation delineating the political relationship between the US and American Samoa, nor has it identified American Samoa's form of government.) While our position of removal from the list of colonized states still holds today, I believe it is time to be more concerned about how American Samoa can progress politically and economically while respecting the concerns of the US and the UN in the process. Consider the respective positions of the three parties involved.

First, American Samoa wants to move forward on issues of political status, local autonomy, self governance, and economic development.

Second, the United States regards the status of its Insular Areas as an internal United States issue, and not under the purview of the Special Committee. It holds further, that the Special Committee has no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. At the same time, in accordance with its obligations under the UN Charter, the US does cooperate by submitting annual updates to the Special Committee on the economic, social and educational conditions in its Territories.¹

Third, the United Nations reasonably interprets as a mandate "United Nations Charter, Chapter 11: Declaration Regarding Non-Self-Governing Territories, Article 73, and Resolution 1541. However, it pursues this mandate diplomatically. It recognizes the work of the US and American Samoa in undertaking a fourth Constitutional Convention held in 2010; the Future Political Status Study Commission report and its recommendation for a public awareness program; and the Governor's invitation to the Special Committee to visit American Samoa. The UN requested

¹ In a letter dated 2 November 2006 addressed to Congressman Faleomavaega, the United States Assistant Secretary of State for Legislative Affairs set forth the position of the Government of the United States on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2010.

the US to assist the Territory in its public awareness program and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested; and it calls upon the US to assist the territorial Government in the diversification and sustainability of the economy.²

Now, if you consider these three positions, there is likely no inhibiting disagreement about any of them. American Samoa wants political and economic advancement. The US does not want the UN encroaching upon its sovereignty regarding US territories. The UN would like to see more rapid progress on self determination in the non-self governing territories.

Even if there is a legal question on UN authority in this regard, that should not prohibit efforts on the primary objectives of advancing the political and economic interests and maturation of American Samoa. Furthermore, the UN is not ordering administering states to settle the political status of these territories; hence the legal issue seems premature at least.

Finally, American Samoa's formal political status is probably in the distant future as we have experienced from the political status determination of the former UN Trust Territories and other US Possessions. These are protracted processes. Even when American Samoa's final political status is determined, however, it is likely to be some form of integration with the US. That has been the popular preference for the last four decades, although it has never been established by plebiscite. (The other two UN political status categories for self governance are a sovereign independent state, or free association with an independent state.)

Therefore, there is really nothing to prevent American Samoa, the United Nations and the United States from cooperating in the overall objective of moving American Samoa forward on a path to greater local autonomy, self governance, and economic development.

We have explained to the Special Committee over the years that American Samoa has a modern democratic government modelled largely after the US and its state governments with legislative, executive and judicial branches. However, this American Samoa government exists largely at the pleasure of US Congress through the Executive office. According to American Samoa's Constitution the legislature may pass legislation on subjects of local application, but, as with the states, it is prohibited from approving legislation that is inconsistent with the laws of the United States applicable in American Samoa or laws which conflict with treaties or international agreements of the United States. The US Secretary of the Interior appoints a Chief Justice of American Samoa and such Associate Justices as he deems necessary. The above provisions are contained in American Samoa's Constitution. It is very likely this that causes the UN to categorize American Samoa as a non-self governing territory.

This is no idle concern for the UN, American Samoa or the US. Article 73 states that members of the United Nations have a duty to recognize that the interests of the inhabitants of these non-self governing territories are paramount.³ They must accept as a sacred trust the obligation to

² http://pidp.eastwestcenter.org/pireport/special/UN-Working%20Paper-American_Samoa_2011.pdf

General Assembly, 7 March 2011: Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples American Samoa Working paper prepared by the Secretariat.

³ United Nations Charter, Chapter 11: Declaration Regarding Non-Self-Governing Territories

promote the well-being of the inhabitants of these territories to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses; and to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement. The US has expressed similar views regarding the development of its territories. This is serious business.

However, we run the risk of understating the urgency of this matter at least for American Samoa. I noted earlier American Samoa's unincorporated and unorganized political status. This has special meaning for American Samoa because the US Congress has Constitutional authority to administer US territories. Therefore, whenever Congress passes a law that applies to American Samoa, our political status is altered. This feature has mixed results. It is very beneficial when Congress, for example, allows us to elect our own Governor or our own nonvoting delegate to Congress. Many US laws apply conveniently to American Samoa by virtue of our near identical Constitutions and do not pose problems.

However, there is a very dangerous downside. The first is that our political status is therefore being decided on a piecemeal basis rather than a comprehensively considered basis that includes the views of American Samoa. Second, the possibilities for damaging American Samoa's political and economic advancement are rampant.

The Governor mentioned last year the devastation that occurred upon Congress's imposition of the US minimum wage to American Samoa in 2007. We had thought there had been good progress in our quest for self government and our relationship with the Federal Government. Then, American Samoa found itself engaged in one of the most difficult conflicts we have ever engaged in with Congress's implementation of US-level minimum wage laws in American Samoa. It did this without local consultation, without appropriate studies, without due consideration of the uniqueness of Tutuila and Manu'a, and without taking into consideration our plea which was substantially better informed on the specific circumstances of our economy. We were forced into accepting a law that was seriously injurious to our economy and was sure to harm significantly our ability to make our way in the world economically.

After countless attempts to speak with Representatives and Senators who were spearheading this effort, and after making our plea before appropriate committees, the Congress of the United States simply ignored our voice in the matter and passed this ill-conceived initiative which has had devastating effects on our private sector and indeed on our entire territory. The Governor expressed last year without hesitation that American Samoa's interests were sacrificed beyond all reason. For many of us, it was as if the Congress was telling us that we did not know any better and that our input and opinions did not count. This event was truly a sad commentary on US-American Samoa relations and how the US treats us. Senator Daniel K. Inouye of Hawaii and a handful of Congressmen and Senators remained by our side during this contentious time. It was largely through the monumental efforts of Senator Inouye that we were able to gain support for legislation to obtain an economic study, which we all agree should have been done before the adoption of the law, to measure the impact of the change in minimum wage. The study concluded that application of the US minimum wage to American Samoa had caused serious, perhaps irreparable, damage to the economy of American Samoa.

Yet, even as we speak, there is no long term solution to this problem for American Samoa, although our efforts have resulted in a temporary suspension of wage increases pending further study.

We are quite concerned about future arbitrary action by the US Congress that could have devastating effects on American Samoa's political advancement and its economy. Certainly, nothing has been done to prevent such in the future. Other Federal actions have and could in the future cause serious problems for American Samoa including tax policy, international trade, regulation, and customs and immigration.

The loss of local control over our immigration and customs could have devastating effects on American Samoa's economy. Previous studies have demonstrated that small, distant and insulated economies can be severely damaged by lack of access to adequate labor.⁴ In such areas economic health and the percent of the foreign born labor correlate quite highly. The reason appears to be that these small areas require more labor flexibility because of the small size and lack of specialty skills in their labor forces.

One of the constant challenges we deal with everyday is the lack of technical assistance and expertise to truly understand the effects of federal laws on our small Territorial economy and form of government. While the Department of Interior has assisted in many meaningful ways to attain sufficient technical support, the reality is that the Department of Interior just does not have sufficient funding for bringing American Samoa up to par with the availability of information and understanding as to how federal actions truly affect our Territorial government.

Another challenge with which we deal is the increasing responsibilities of Territories to comply with federal requirements at levels that are expected of the several States. Territories often should be exempted from inapplicable or especially onerous requirements.

We think that American Samoa could benefit greatly from the experience, expertise and programs of the United Nations in dealing with insular area economies, non-self governing territories and economic development in general.

We are Americans. Our relationship with the United States goes back 110 years and is responsible for our citizens' overwhelming sense of patriotism toward the US. American Samoa has one the highest rates of enlistment per capita for the US armed forces. We enlist not only because of the excellent opportunities that the military offers for education, training and career, but also for our keen sense of loyalty to the US for their treatment of our people and the care that *has been* provided to our Territory over the years.

Like every state or territory in our union, we regard it as our right, indeed our duty, as Americans to stand up for our interests and democratic government. That is the American way.

⁴ Malcolm D. McPhee & Associates and Dick Conway, *The Economic Impact of Federal Laws on The Commonwealth of the Northern Mariana Islands*, October 2008.

We are also persuaded that this could easily be done without infringing on the authority of the US over its territories.

I know we all appreciate the dedication and accomplishments of the Special Committee of 24, the generosity of our administering states, and the complexity of the decolonization issue. However, our Government believes it is time to begin persuading administering states that this is serious business, and should not be permitted to drag on for additional decades. We understand that they have many important issues to deal with, but completing the process of decolonization is important as well.

Like much else of high importance, it is largely a matter of political will. Our Governor suggests that among the recommendations to the UN General Assembly from this meeting be one that:

1. Urges the administering states to rededicate their efforts to progress on the important matter of decolonization, especially at a time when the spread of freedom and democracy hangs in the balance in much of the world.
2. Urges administering states to submit reports of progress annually on their respective non self-governing states according to a format, criteria and benchmarks established by the Special Committee.
3. Urges the administering states to cooperate with the Special Committee in assessing the effects of their actions on non self-governing territories and their political, economic and environmental advancement to some formal decolonized status.

Governor Togiola again extends his invitation to the Special Committee of 24, or a delegation thereof, to visit American Samoa in the near future.

Thank you again for this opportunity.

Soifua.