

Testimony of the Honorable John M. Silk, Minister of Foreign Affairs,
Government of the Republic of the Marshall Islands.
Presented to the Subcommittee on Asia, the Pacific, and the Global
Environment of the House Committee on Foreign Affairs
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Chairman Faleomaveaga, Members of the Subcommittee, Ladies and Gentlemen:

On behalf of His Excellency President Jurelang Zedkaia, I want to thank you for hosting this important briefing regarding issues that are important to the Republic of the Marshall Islands

The Republic of the Marshall Islands and the United States have a long standing relationship that has spanned over 7 decades. Our relationship has taken us from the end of WWII when American soldiers liberated the Marshall Islands and stopped the violent atrocities and human rights violations being committed on Marshallese; to today, where citizens of the Marshall Islands are fighting alongside American soldiers in the war on terror.

Our relationship took a significant step over 40 years ago, when the United States assumed the role of Territorial Administrators for the Trust Territory of the Marshall Islands. Simultaneously, it was during this time that the U.S. determined that the location of the Marshall Islands would provide a significant advantage for security in the region. This led to the atomic and thermonuclear weapons era in our two countries' respective histories. As a result, many Marshallese still feel the ill-effects of this era to date, yet we still believe that our role was essential to the preservation of democracy and the ideals we strive for today.

In 1986, the Trust Territory relationship came to an end and a new undertaking took shape in the form of a Compact of Free Association. Today, this strategic partnership continues to evolve to where our two countries work in equal partnership on many issues in the domestic, regional and international arena.

This mutual partnership has provided a myriad of opportunities for both the RMI and the US. Since the late 1940's, the US military has continuously leased Kwajalein Atoll for its strategic missile defense program. And at the same time, citizens of the Marshall Islands are able to live, work and pursue educational advancement in the US.

Although our relationship has come a long way, there are a few outstanding issues that still need resolution for our relationship to develop further. I want to raise and put forth for the record on ways to make our relationship more beneficial for our two countries.

Status of the Bi-lateral relationship between the Republic of the Marshall Islands and the United States of America

The RMI and the US entered into a bilateral relationship in 1986 that can only be characterized as special and unique, in the form of a Compact of Free Association. No other country in the world, except for the Federated States of Micronesia and the Republic of Palau, has the same arrangement with the United States.

In the twenty four (24) years since, the RMI and US have confronted many regional and international issues together. Our mutual cooperation has led to a more secured Northern Pacific region, and our common principles for democracy and freedom assures the US an ally in the global war on terrorism.

Our voting record at the United Nations speaks volume to our commitment to this relationship. We always stand behind the United States in casting very tough votes, even if it is not the most popular thing to do. In the end, we are contributing to the greater good and security of the world.

My Government is very pleased to note that the US Government is embarking on being a major player in Climate Change. We are one of the earliest supporters of the Copenhagen Accord, and welcome President Obama's personal commitment in brokering a deal at Copenhagen. But more is needed – global energy markets and the entire international community – especially the most vulnerable, such as small island states - are waiting for the US White House and Senate to signal a strong commitment on domestic action to reduce emissions. We are mobilizing to meet the challenge of the \$30 billion of “fast start” finance under the Accord – we urgently need concrete results from “fast start” finance. Paperwork and red tape will not save us from rising seas, and will do little to build political trust. We urge that Congress appropriate full funding for “fast start” international efforts on climate change starting this year, and, in domestic legislation, to boost international finance for both adaptation and energy.

To us, climate change stands to threaten our sovereignty – we are only 2 meters above sea level and we have no high mountains – only our thin atolls. Unless there is strong and immediate action by all major emitters – RMI and other low-lying nations could succumb to sea level rise in 50 years, this threat – combined with even more urgent threats to our water supply - would inevitably force out-migration. A once proud people with ancestral ties to their small islands would become the first climate refugees. What will become of our people, and how will our rights be safeguarded? While this is an international issue, we can no longer ignore it's bilateral dimensions.

We would like to discuss issues related to the implementation of the Compact of Free Association, as Amended. As with anything that has many moving parts, there needs to be constant review of its performance to ensure that program delivery is optimized in the most efficient and effective manner. There is such a mechanism that was built into the Compact of Free Association, as Amended. This being the mandated 5-Year Review.

During our negotiations, both the RMI and the US agreed to mutually review the performance rendered in the Compact, with respect to the sector grant allocations, the Trust Fund, and others. To date, the RMI has identified key areas that need to be

addressed to fully optimize the potential of the assistance provided under the Compact, as Amended.

Compact of Free Association, as Amended 5-Year Review

Pursuant to Section 104(h)(2) of Public Law (108-88), the Compact of Free Association, as Amended, provides for the U.S. Government to “review the terms of the respective Compacts and consider the overall nature and development of the U.S.-FSM and U.S.-RMI relationships.” The section further states that the RMI will have a chance to review and comment on the review with further follow-up by the U.S. President including “any recommendations for actions to respond to such findings.” Furthermore, this includes Section (E) of paragraph (1) which allows for “recommendations on ways to increase the effectiveness of United States Assistance and to meet overall economic performance objective, including, if appropriate, recommendations to Congress to adjust the inflation rate or to adjust the contributions to the Trust Funds based on non-U.S. contributions.”

This clearly outlines the terms of reference for the 5-Year Review. In keeping with the letter of the law, and working within the parameters set forth within, the RMI has identified areas that need to be improved in order to meet what this review was intended for.

Full Inflation Adjustment

Partial inflation of the Gross Domestic Product (GDP) Implicit Price Deflator at the rate of 2/3rd of that of the US GDP has had a negative impact for the RMI. This, coupled with the annual decrement of \$500,000 from the financial assistance from the US, is taking a toll on the RMI’s fiscal stability. The declining real and nominal values of the grant assistance is hindering our ability to fully maximize the potential economic growth for the Marshall Islands.

For example, from fiscal year 2005 to 2007, the first year both the decrement and the partial inflation were applied to the base grant, today, the RMI has lost approximately US \$1 Million in real value. This places significant pressure on the RMI to provide mandated services without cutting essential elements in providing these services. If this situation does not improve, many of the essential services currently being provided by the Government will have to decrease or ultimately be cut.

Global economic conditions further exacerbate the effects of the partial inflation and the decrement to our fiscal situation. One example is the cost of petroleum. This single commodity has managed to ravage our energy sector, increase the cost of delivering vital services to our people, and has increased the operation cost of the Government, as a whole. Paying for fuel to ensure that lights are kept on and that ships are running on schedule has become more of a burden to our financial situation.

Full inflation is needed to assist the RMI in off-setting some of the impact caused by the decrement. Full inflation will limit the effect of the decrement on our financial situation

in the short-term, and will give the us ample time to transition to a fiscally stable state. We anticipate that when the decrement finally catches up to us, the shift will not be too extreme. Not doing so will force the RMI to make radical decisions that could potentially hinder our economic growth.

The RMI requests the committee's endorsement on this very critical issue. Our economic prosperity most likely depends on this.

Trust Fund Sufficiency and Amendments to the Trust Fund Agreement

The Compact, as amended provides a provision for the establishment of the Trust Fund. The main purpose of this trust fund is to duplicate the revenue source currently provided under Section 211 of this agreement, post 2023.

The last GAO report on the RMI trust fund calls into question the adequacy of the fund. The GAO's findings have been further supported by a recent Report of the Trust Fund's Investment Adviser. The RMI agrees with GAO's assessment and our Investment Adviser's Report, and urges the U.S. to work with the RMI to find a solution that will guarantee the sustainability of the trust fund. Our immediate concern is to facilitate a reasonable approach to maximize the potential and viability of the trust fund. Here are some possible solutions to this dilemma.

Extension of Grant Assistance

The initial delay in the establishment and investment of the trust fund puts the RMI at a disadvantage from the beginning. The trust fund agreement requires an investment for a period of twenty (20) years, but because of the delay, the trust fund would have been earning income for only seventeen years. There were legal and administrative hurdles to overcome before the fund was invested.

To remedy this delay, the RMI would seek an additional two to three years of annual grant assistance to meet the conditions set forth in the agreement of a twenty year investment and build up timeframe. Discussion on a base amount would have to happen to determine the appropriate level of grant assistance for the two to three year extension. This amount would become, in effect, the benchmark for the annual proceeds from the trust fund. In addition, this measure would conform with the original intent of the Trust Fund Agreement by both the US and RMI Governments.

Additional Contributors

The Republic of China (Taiwan) is the only subsequent contributor to the RMI-US trust fund. Taiwan will provide \$50 million to the trust fund over the life of the build-up time period, making payments on a scheduled plan prescribed by our bi-lateral arrangement with the Taiwanese government. This is a major step as we try to give all the possible opportunities for the trust fund to become viable post 2023. The RMI is actively seeking other subsequent contributors to the trust fund, and I urge the U.S. to do the same. This is

not just a good and prudent idea. The Trust Fund Agreement itself requires it. Both Governments have a fiduciary responsibility to seek other subsequent contributors to the Trust Fund.

Full Inflation adjustment for Trust Fund Contributions

Under the current trust fund agreement, contributions to the fund are not adjusted for full inflation. The funds lose their real value each year it is not inflated to reflect the its true value. We believe a full inflation adjustment to the Trust Fund contributions will help stabilize this fund, and provide adequate resources to the RMI post 2023.

Tax and Trade Compensatory Adjustment

The RMI is seeking remedy to the tax and trade report it submitted to the US Government in September 2009. The report stipulated that the RMI had indeed lost potential revenue as a result of the enactment of the original Compact. Pursuant to Section 111(d) of Public Law 99-239, the RMI could petition the US Congress to allow for compensatory adjustments if the RMI could show adverse impact from U.S. Congressional changes to the tax and trade provisions in the original Compact.

The report clearly shows that the RMI lost out on approximately \$244 million as a result of these changes. The Compact has authorized up to \$60 Million to compensate the RMI and the FSM for these changes, and is awaiting the US Government to review our report and make its determination. Should the funds be made available, the RMI plans to use these funds to invest in the RMI-US trust fund to ensure that the trust fund will be viable in the future, post 2023.

Supplemental Education Grant (SEG)

The idea behind having the Supplemental Education Grant (SEG) was to enable the RMI considerable freedom in designing and implementing its own educational programs to best fit our needs. This led to the RMI “cashing-out” of these federal programs to establish a similar system without the strict criteria in which many of these Federal Programs adhered to. The Compact, as Amended authorizes \$6.1 million annually to fund these supplemental educational programs.

Our national Kindergarten Program and the displaced youth populations are two of the primary beneficiaries from this arrangement. This grant allows the RMI formulate a universal pre-school program, and instill in them the foundation for achieving educational excellence. The training provided for displaced youth will allow them to compete effectively in the workforce.

Though progress has been made with respect to the implementation of the SEG, there are still barriers to which we still need to overcome to fully appreciate the intent and purpose of the SEG. Most notably is the delayed transfer of the SEG funds to the RMI.

The annual appropriation of the SEG in Congress usually takes place well into the school year, which forces the RMI to delay or even canceling programs because of this delay. Core activities that are currently budgeted under the SEG are forced to utilize funding appropriated to other core programs so they can start at the beginning of each school year. The language in the Compact specifically states that the SEG will be made available to the RMI at the beginning of each fiscal year, yet this is not the case.

If and when Congress finally approves the SEG for that fiscal year, there is considerable delays in the transfer of funds within the U.S. Agencies that administer the grant, and making it available to the RMI. By U.S. law, these funds are to be made available to the RMI within 60 days after the date of appropriation, which again, is not the case.

To compound these problems, the SEG is not adjusted for the 2/3rd inflation provided in the Compact. The RMI has seen the reduction in the SEG since the second year it was made available to the RMI, and fears that this trend will subsequently lead to the RMI not being appropriated the SEG in future years.

The RMI requests this committee and the Administration to make provision that the SEG be made available to the RMI as a permanent appropriation and adjusted for inflation. This is an issue that could be corrected in the Compact mandated 5-Year Review. Doing so would greatly improve our ability to provide educational services to all Marshallese.

Addressing Climate Change in the context of the Compact

RMI is one of the world's most vulnerable nations to climate change – our Compact should be a tool to achieving a low-carbon pathway and climate-resilient future. RMI has taken a leadership position among developing nations – seeking to cut our emissions by 40 percent – and we are also developing specific approaches to safeguard our population - the Compact should be better addressed as a possible pathway to get us there.

The Compact review should consider first how RMI and the US can better mainstream climate change into development activities, and how we can better “climateproof” existing activities, especially Compact-related infrastructure. In addition, we should consider how anticipated US “fast start” funding – currently before Congress - for adaptation and renewable energy can be addressed in the context of the Compact – which assures us priority in international funding, and poses clear advantages including mutual oversight. Finally, we should consider how the Compact addresses the more complex long-term risks posed by climate impacts.

Issues related to the US Nuclear Testing Legacy in the Marshall Islands, including Section 177 of the Compact of Free Association, and the Nuclear Claims Tribunal (NCT)

From 1946 to 1958, the U.S. conducted thermo-nuclear testing in the Marshall Islands, in which sixty-seven (67) atmospheric nuclear weapons were detonated on Bikini and

Enewetak Atolls. The most powerful of these weapons was the first ever Hydrogen bomb to be detonated in the world on March 1st, 1954. March 1st is now a national remembrance day in the RMI.

Commonly referred to as the Bravo Shot, it was the most powerful weapon the world had ever seen. The Bravo Shot is often benchmarked against another infamous atomic bomb for its awesome power; the bomb dropped over Hiroshima that ultimately ended World War II. It is quantified that the yield of the Bravo Shot was approximately 1,000 times more powerful.

The nuclear legacy has affected every aspect of life in the islands, including our people's health and our environment. The testing will forever be remembered in the perils of time as a period in which many of our people were forced to be displaced from their home islands, not being able to cultivate and benefit from their lands, and ushered in a time of unprecedented levels of new and various types of cancers emerging in the local population.

Our own human resources and capital capacity restricts us to fully deal with the circumstances caused during the testing era. Even with direct financial and technical assistance from the U.S. in the form of the 4-Atoll Health Care Program is insufficient. The RMI firmly contends that the extent of the damages done to the RMI and to its people as a result of the nuclear testing far exceeds the limitations of only 4-Atolls. The Marshall Islands further stipulates that the whole of the RMI was affected by the nuclear fallout. Our claim is further amplified by the recent report conducted by the National Cancer Institute (NCI), which commissioned a study to assess the RMI on cancer issues.

In 2004, the NCI reported that there will be an estimated five hundred thirty two (532) radiation related excess cancers in the Marshall Islands that resulted from the nuclear testing program, and that many of these cancers have not been realized. Five hundred thirty two more people being diagnosed with cancer is a significant portion of our population. This would equate to approximately 1 in 120 persons living in the RMI will be diagnosed with cancer in the future. These new cancers do not take into account a bevy of other factors, such as exposure to radiation in the environment (such as the consumption of food, water and others). As such, it is difficult to identify the number of people who will develop cancer as a result of the testing through its natural progression within a population.

There needs to be continued discussion with the intent of urgently addressing the situation with respect to the fulfillment and payment of awards made by the Nuclear Claims Tribunal. Over the past two (2) decades, much has already been said on this subject and our Government and the Tribunal have provided large amounts of scientific and legal background, and information supporting the Tribunal's processes and awards in its Changed Circumstances Petition (CCP), various Congressional public hearings; and numerous meetings between our governments.

The point remains that the establishment of the Tribunal, its jurisdiction and processes were something that both governments agreed to in the Compact of Free Association. The RMI and NCT have fulfilled these mutually agreed mandates, and it should come as no surprise to anyone some 24 years after that settlement that the Section 177 settlement was inadequate. The problem now is that Congress needs to take measures to address these remaining issues in a comprehensive manner that is consistent with the spirit and intent of implementing a final settlement of all claims arising from the nuclear testing program.

The Tribunal has ceased to function because the fund has been depleted. This will prevent the Tribunal from making personal injury awards for cancers in the future. As of today, over \$23 Million remained unpaid on personal injury awards.

Property damage awards made by the Tribunal also need to be addressed. Of the \$2.2 Billion in awards made by the NCT, only \$3.9 Million have been paid out. Two of the atolls (Bikini and Enewetak) that received awards from the Tribunal have found it necessary to take their awards back to the U.S. courts to seek enforcement of the process that both Governments originally agreed to in the Section 177 Agreement. To date, the case was dismissed by the US Court of Appeals and the US Supreme Court declined to hear it. Now they are back to square one, per se, in trying to seek fair compensation for their property damage awards through the US Congress, as originally stipulated in the Compact of Free Association. We need to do better than this, and work together toward a final resolution of the terrible nuclear legacy that our people have suffered, and continue to suffer.

Health Issues related to Nuclear Testing

Health care remains an issue in the Marshall Islands, specifically with regard to illnesses stemming from the nuclear testing in the RMI. There are numerous reports that support this claim, and is one of the fundamental premises for the NCT's personal injury awards.

One in particular is the recently published President's Cancer Panel Annual Report entitled "Reducing Environmental Cancer Risk, What We Can Do Now" (PCP) published by the U.S. Department of Health and Human Services, National Institutes of Health and the National Cancer Institute comment in the Report's Executive Summary that:

"Of special concern, the U.S. has not met its obligation to provide for ongoing health needs of the people of the Republic of the Marshall Islands resulting from radiation exposures they received during U.S. nuclear weapons testing in the Pacific from 1946–1958."

The PCP goes on to state:

"Funding issues are exacerbated by the limited health resources available in the Marshall Islands and elsewhere in the Pacific Islands to treat affected individuals who seek care through the Section 177 and Special Medical Care programs."

The PCP notes that despite the ongoing increased risk of several hundred new cancers caused as a result of the Nuclear Testing Program in the Marshall Islands, actual funding to address these health risks has declined considerably since the mid 1980's notwithstanding the exponential increase in health care costs during the same period.

These illnesses being referred to by the PCP include thyroid cancer, leukemia, and a myriad of other cancers that have become prevalent in the RMI. The rate and proportion of individuals within the RMI's population being diagnosed with one or several types of cancers is staggering and suggest that these rates are not normal.

Changed Circumstances Petition

On September 11, 2000, the RMI submitted to the United States Congress a Changed Circumstances Petition (CCP) in an effort bring the US Government to terms with the fact that not just 4 Atolls were effected by the nuclear testing, but rather, the whole of the RMI was in fact contaminated from the testing. The RMI Government methodology and rationale in developing this report was based on new information that were considered classified during the time Section 177 of the Compact of Free Association was being negotiated.

To address some of the RMI's concerns, the US Senate introduced S.1756 in 2007 at the request of former President Kessai H. Note to start addressing these issues outlined in the CCP. After a hearing was held by the committee, and a mark-up was conducted on S.1756, the proposed legislation increased the number from four (4) to ten (10) atolls (Bikini, Enewetak, Rongelap, Utrik, Ailuk, Mejit, Likiep, Wotho, and Wotje) that would have participated in the health care program; and would have increased the annual funding level committed to this health care program from less than US\$1 Million, with no inflation adjustment, to US\$5 Million, with inflation adjustment.

S 1756 died, without any action at the end of 2008. Unfortunately, although we have held several hearings in the House regarding nuclear issues and our "Changed Circumstances Petition", not a single bill has been introduced to address these issues.

This is certainly a big step forward in the RMI's efforts to address the CCP. The increase in number of atolls would certainly be in line with the RMI's belief that the damages caused by the nuclear testing were not limited only to the 4-Atolls. Furthermore, it allows for an increase in funding to pay for the added atolls to the health care program.

One of the major impediments to providing quality health care is the high cost of medical care. With no inflation adjustment to the funds currently used to fund the 4 atoll health care program, and the high inflation rate of overall medical care, the program is having a difficult time surviving. It's to a point where the RMI government is forced to subsidize the health care program.

Rongelap Resettlement Issue

Recently, there has been a great deal of attention given to the Rongelap Resettlement Project as the clean-up of Rongelap Island nears completion. Regarding the decisions made by the people of Rongelap, acting through their local government's constitutional process, about resettlement of their homelands, the National Government understands that the Rongelap resettlement process is being administered under applicable agreements and provisions of national, local and U.S. law. These measures governing return of the Rongelap community, implement resettlement commitments of the United States under the law approving the Compact of Free Association.

We believe that the people of Rongelap should consult with their experts in moving forward in the next step of the resettlement process in accordance with their agreements so that they are able to make reasoned and informed decisions about the future of their community.

For our part the national government stands ready to assist the Rongelap leadership and people in any way it can to allow the Rongelap community at Mejjatto and elsewhere to proceed with their resettlement plans and goals in a safe and timely manner.

Land Use Issues

Mr. Chairman, our Government continues our negotiations with the Kwajalein landowners in our efforts to produce a new Land Use Agreement (LUA) that is consistent with the new MUORA. We have held fruitful discussions with the Kwajalein landowners this past week, and had a meeting with Assistant Secretary of State for East Asia and Pacific Affairs with the participation of the Kwajalein landowners which helped in clarifying the way forward on implementing this very important part of the amended Compact.

Conclusion

The RMI's relationship with the United States is multi-faceted and complex. We continue to have critical legacy issues such as the enduring consequences of the U.S. Nuclear testing program and how we address these problems. We have current issues with the amended Compact in terms of maintaining the real value of grant assistance and assuring the future viability of the Trust Fund. And, we have issues that are both rooted in the past and the present such as the MUORA. You will hear a variety of views on these issues today from other witnesses, and we appreciate the opportunity to present these views before your sub-committee.

Thank you Mr. Chairman for hearing our testimony. I look forward to answering any questions that you or the committee might have.