

Micronesia in Review: Issues and Events,

1 July 2009 to 30 June 2010

Reviews of Kiribati and Nauru are not included in this issue.

FEDERATED STATES OF MICRONESIA

This review covers a portion of the president's and vice president's travel; the Micronesia Presidents' Summit in Majuro, Republic of the Marshall Islands; proposed amendments to the Federated States of Micronesia (FSM) Constitution; the issue of acting President Peter Christian's return to public life; and several ambassadors' presentation of credentials.

July 2009 saw both President Emanuel (Manny) Mori and Vice President Alik Alik traveling to foreign capitals. President Mori traveled to Noumea, New Caledonia, to attend the Third France-Oceania Summit on 31 July. Accompanying the president were his wife, Emma Nelson-Mori; Secretary of Foreign Affairs Lorin Robert; and Fabian Nimea, director of the Office of Statistics, Budget and Economic Management, Overseas Development Assistance, and Compact Managment (SBOC). Vice President Alik traveled to Beijing to meet with the Chinese Vice President Xi Jinping on 9 July. Mr Alik rounded out his visit to China with an inspection of the newly established FSM Embassy at the Jiangoumenwai Diplomatic Compound and a meeting with the embassy staff and FSM students attending various schools in the country (FSM Information Services 2009c, 2009b).

The 9th Micronesia Presidents'

Summit met 16–17 July in Majuro, Republic of the Marshall Islands (RMI). This summit dovetailed with the 11th Micronesia Chief Executives' Summit, which was held 14–16 July and included state governors of the Micronesia entities. The members of the Micronesia Presidents' Summit are the presidents of the FSM, the RMI, and the Republic of Palau (RP). Then-RMI President Litokwa Tomeing expressed his view that the people of Micronesia are “helpless victims of global forces such as climate change, financial and economic downturns, and an energy crisis”; he also expressed the hope “that Micronesia will stand up to the challenges and fashion for itself a solid foundation for genuine individual cooperation and support.”

FSM President Mori told the gathering, “Given the multitude of challenges we continue to face, either together or individually, it is in our collective interest to have an inclusive discussion on concrete issues affecting us all and to maximize and explore ways of pooling resources for collective benefits.” He concluded his speech by saying, “After all, it is given that we would achieve much better results by working closely together as one. This naturally would only strengthen our Micronesia region, and would no doubt enhance our Micronesia spirit of partnership and solidarity. We need each other now more than ever.”

RP President Johnson Toribiong

committed himself “with 100% effort to work in full cooperation to build upon the issues of the past summit meetings and find solutions to overcome the challenges [of climate change and energy problems] before them.” He encouraged his colleagues to commit themselves to “work together at every forum.” President Toribiong underlined the importance of cooperation by quoting General Douglas MacArthur, who said, “Defeat is just another word for too late”; Toribiong encouraged his colleagues to heed MacArthur’s advice “and act now, before it’s too late” (FSM Information Services 2009a).

In this summit, the three presidents adopted the theme of the Chief Executives’ Summit, which addressed climate change, energy challenge, and proactive leadership for a resilient Micronesia. It remains to be seen whether the overwhelming support the three presidents expressed for joint effort and collaboration among their respective countries will translate into a united effort to acquire affordable fuel and create a Micronesian group in the Pacific Islands Forum.

President Mori issued a presidential order that three constitutional amendments be put to the voters for ratification in the March 2011 national election for FSM Congress. Two of the proposed amendments originated from the 15th FSM Congress, including one that would repeal the citizenship provision (section 3, article III) of the national constitution, leaving nothing in its place, and another that would provide for four-year terms for all members of congress. The third proposed amendment would clarify

who is eligible for the office of the president.

If the citizenship amendment is approved, the assumption is that the FSM Congress will enact a citizenship statute that would allow dual citizenship, but what shape that statute would take, no one currently knows. Voters are being asked to ratify deletion of the citizenship provision without the benefit of seeing the text of the new provision, in effect giving the FSM Congress the power to enact a new citizenship law without voter input. This will be the fourth consecutive attempt to amend the citizenship provision of the FSM Constitution; the same proposal failed to be ratified three times previously.

The push in the FSM Congress for dual citizenship is purportedly based on the desire for FSM citizens serving in the US armed forces to acquire US citizenship and become military officers without losing their FSM citizenship. Since those wishing to acquire US citizenship must go through the naturalization process, which includes a renunciation of all other allegiances and citizenships when taking the oath, some feel that dual FSM/US citizenship is impossible. If this is true (which is arguable), the people who would really benefit from this proposed amendment are the US-born sons and daughters of FSM citizens who currently must renounce their US citizenship if they wish to retain their FSM one. Many observers are wondering whether the FSM Congress is only pushing the dual citizenship issue because it would benefit the US-born children of government officials.

Another possible concern about dual citizenship is that it could allow

non-nationals the right to own land in the FSM. The constitution restricts landownership to citizens and there are fears that allowing dual citizenship would greatly expand the number of people born outside the FSM who qualify as possible landowners. The decisions that the voters will need to make are (1) whether such an important national issue as citizenship should be left to the congress to legislate; (2) whether or not they trust the congress to craft fair and adequate dual citizenship legislation; and (3) whether it is a good idea to open the door for citizens of other countries to acquire FSM citizenship in view of the fact that citizenship is directly linked to landownership.

The second proposed amendment would lengthen the terms of the ten two-year members of congress to four years. The two-year members of the national congress argue that two years is too short for them to carry out their programs. If the 16th FSM Congress is an indicator, no new major legislative initiative was undertaken. In fact, all 39 congressional acts that became public laws during that congress were amendments to existing public laws, and of these 39 public laws, 14 dealt with pork-barrel legislation, that is, government spending intended to benefit legislators' local constituents in return for their support. The practice of pork-barrel legislation is wasteful and has, in a case where a national FSM senator providing the funds retained final approval of the projects, been ruled by the FSM Supreme Court as a violation of the constitutional doctrine of separation of powers in the national government (*Udot Municipality v FSM*, 10 FSM

Intrm 498 [Chk 2002]). So the argument that the two-year term members need more time to implement their programs is probably more imaginary than real.

To put this proposed amendment in proper perspective, the voters should look at members of congress as elected public guardians with responsibilities and accountability to the general public. Election is the only means to hold the members accountable. As a tool for evaluating the performance of members of congress, the two-year interval of electing the ten representatives in the FSM Congress is appropriate, in my opinion; the people deserve to pass judgment on the performance of their representatives more frequently than every four years. Most observers feel that what prompted this proposed amendment is two-year-term members' desire for job security and continued access to the substantial financial perks of their position.

The third proposed amendment is necessary "to accurately define who is eligible . . . to become President [and Vice President] of the FSM." The amendment merely clarifies that only "at-large, 4-year member[s] of Congress are eligible to become President of the FSM" (FSM Information Services 2009f).

In last year's review, I reported the untimely passing of Resio Moses, who had served as Pohnpei state at-large senator and vice speaker of the FSM Congress (Haglegam 2010). The voters in Pohnpei elected Peter Christian to succeed Moses in a special election held on 20 October 2009. Christian is a veteran of twenty-eight years in the FSM Congress. He is the last member of the 1st FSM Congress who still

remains active in national politics. He was also one of Micronesia's chief negotiators of the second Compact of Free Association with the United States. Mr Christian brings to the Pohnpei at-large seat his extensive experience in government and business, as well as an explicit ambition to seek the FSM presidency (FSM Information Services 2009e).

On or about 29 September 2009, on behalf of President Mori, Vice President Alik approved the national budget in the amount of \$35,278,975. In addition, the vice president approved "three other Congressional Acts into Public Laws for President Mori during the Second Regular Session of the 16th FSM Congress."

The amount of the national budget presents no problem. The main issue is whether the vice president actually has the constitutional authority to sign congressional acts into public laws on behalf of the president. The presumption is that the vice president can, as "acting president," perform functions constitutionally delegated to the president. It has been common practice in several past national administrations for presidents to designate vice presidents as well as department heads as acting presidents. But the FSM Constitution is completely silent on presidential authority to designate an acting president. In my opinion, constitutional silence on an issue cannot be interpreted as consent or authorization for action.

In section 1 of the executive article (article X), the FSM Constitution vests executive power of the national government in the president. This section does not vest the president with authority to delegate his executive

power to his designee as acting president. In section 2 of the same article, the framers of the national constitution used the adverb "expressly" to vest specific powers in the president. This word means fully and clearly expressed. In other words, it means that the constitutional powers of the FSM president are unambiguously carried out by him and no one else. Clearly, no delegation of authority was contemplated by the framers of the FSM Constitution. If no delegation of authority is allowed, then no one can approve acts of congress but the president.

A related issue concerns when the vice president would become acting president. The vice president is mentioned only four times in the executive article: first, when the office is created; second, with regard to the declaration of vacancy after the election; third, when the vice president assumes the presidency; and fourth, in relation to compensation of the vice president and the president. Constitutionally, the vice president is a president-in-waiting. He assumes office when the presidency is vacant or when the president is declared incapacitated. There is nothing in the constitution about the vice president becoming acting president while a sitting president is still in office (FSM Information Services 2009d).

On 14 June 2010, Robert Kaiwai, the ambassador-designate of New Zealand, presented his letter of credentials to President Mori. The ceremony was attended by Ambassadors Shoji Sato of Japan; Zhang Weidong of the People's Republic of China; and Susan Cox of Australia, along with William Douglass, who is the deputy chief of

mission of the US Embassy, and President Mori's cabinet members.

In his statement, Ambassador Kaiwai emphasized the strong relationship his country has with the Federated States of Micronesia as well as New Zealand's desire to do more on such common issues as climate change and the development of sustainable fisheries. In turn, President Mori expressed the country's gratitude and appreciation to the New Zealand government for providing assistance in human resource development, maritime aerial surveillance, and community development. In a private meeting after the ceremony, President Mori specifically requested assistance from New Zealand in support of educational reform in FSM (FSM Information Services 2010a).

Later the same day, Yogendra Kumar, ambassador-designate of India, presented his credentials. In his formal statement, Ambassador Kumar "praised FSM's achievements in political stability with established democratic traditions." He pointed out that "in this era of globalization, FSM has been able to preserve its unique cultural heritage, which is a testimony to the wisdom of its leaders." Kumar expressed India's appreciation of "FSM's leadership role at the international level in highlighting the dangers of climate change in the region." Kumar also said that his country is grateful for FSM's support of its candidacy for both a permanent seat and a non-permanent seat in the proposed restructuring of the United Nations Security Council.

President Mori pointed out that FSM support for India's bids for membership on the UN Security Council is

based on "India's leadership role as a developing country in terms of South-South Cooperation," and on India's influence and respect in the developed world. The president also mentioned that India's technical assistance "enabled the FSM Coconut Authority to purchase equipment to improve the production of an assortment of coconut-related products."

In a brief private meeting after the credential presentation ceremony, Ambassador Kumar told President Mori that under India's Technical and Economic Cooperation Programs, training slots and scholarships are available for FSM mid-level career officials. He informed the president that a portion of the grant provided to the FSM Coconut Development Authority has not been fully utilized and that India can increase the grant for specific projects (FSM Information Services 2010b).

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GUAM

Dominating the news for the past year on Guam was the issue of the pending relocation of 8,600 US Marines and their several thousand dependents from Okinawa to Guam, the building of a new aircraft carrier wharf and facilities, and the establishment of a new army ballistic missile defense base over the next few years. At the same time, facilities at Andersen Air Force Base are being upgraded. This combined military buildup has already begun to impact many aspects of the island's political, economic, and social landscapes as well as the cultural life-ways of its people.

In November 2009, the Department of Defense (DOD) released its official "Draft Environmental Impact Statement" (DEIS) for public comment. The purpose of the 11,000-page document was to detail the impact of the relocation on the local community. The military buildup is expected to occur over a multiyear period with peak activity to be reached by 2014. According to the report, at the buildup's height, almost 80,000 people will be added to the island's existing population of

170,000—a population increase of 45 percent. About half of this population growth will be due to "transient workers," meaning construction workers and other personnel coming to Guam for initial construction and other preparatory activities. Even after these workers have departed, the buildup is projected to push Guam's population above the 200,000 mark. The report noted that, without the buildup, Guam's population would not have reached this number for another twenty years. Guam residents responded in force, with 10,000 written comments noting their concerns about various proposed actions (*PDN*, 1 Jan, 29 June 2010).

One of the more controversial revelations in the report was the federal government's plan to acquire at least 2,200 acres to add to its current inventory of Guam land. At present, the US government owns nearly one-third of the island—most of which is in DOD hands. Huge tracts of these federal lands, however, are not only unused but also completely undeveloped. According to the environmental impact statement, the additional acreage would be for a number of purposes, including a live firing range in the Pāgat/Sasayan area in the northeast part of the island (*PDN*, 1 Jan 2010). There are community concerns about increased traffic and denial of access to recreational lands as well as the fact that the site includes the Pāgat cultural historic site (Guam Bureau of Statistics and Plans 2010). The live firing range is currently planned for a bluff right above this prehistoric indigenous site, which is listed on both the Guam Register of Historic Places and the US National Register of Historic