

Written Statement of the American Samoa Government
For The Honorable Lolo Matalasi Moliga
Governor of American Samoa
By Talauega Eleasalo Ale
Attorney General
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Mr. Chairman, Members of the Committee, Ladies and Gentlemen: *Talofa Lava.* Thank you for the opportunity to offer this statement on behalf of our Governor, the Honorable Lolo Matalasi Moliga, regarding American Samoa's experience as a Territory of the United States of America.

Overview:

Under Chapter XI of the United Nations Charter, the administering nations have accepted as a sacred trust the obligation to promote to the utmost, the well-being of the inhabitants of non-self-governing territories, and to this end, 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 further, under Chapter XI, the administering nations have committed 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 development.

In my view, much of what Chapter XI encourages has already occurred with respect to American Samoa's relationship with the United States of America. Indeed, by any measure, our union with the United States has resulted in substantial benefits to the people and government of American Samoa. But despite the many benefits of our relationship, it is my firm belief that American Samoa's current political status as an unincorporated and unorganized territory of the United States is neither sustainable nor economically secure. Moreover, it lacks appropriate vestiges of self-governance as required by the UN Charter.

There are numerous examples of benefits enjoyed by American Samoa under its current status. Perhaps most important to many American Samoans, has

been the protection of our culture and the protection of our communal land tenure system that is a foundation of our culture. These ideals were set forth in the Deeds of Cession of 1900 for Tutuila and Aunu'u, and 1904 for the Manu'a Islands. The Deeds of Cession were premised in part upon protecting the Samoan way of life, and for 114 and 110 years, respectively, the United States has, for the most part, honored this commitment.

Moreover, there has been significant political, economic, social and educational advancement in the ensuing years. Government by a Naval Commandant gave way to government through a Department of Interior-appointed Governor, which gave way in 1978 to government under a locally elected Governor. Our Constitution, first adopted in 1960 and revised in 1967, is aligned to that of the American model, with three branches of government, an Executive Branch, a Legislative Branch including a Senate selected by Samoan custom rather than by popular vote, and a Judiciary.

Our economic growth, nominal from 1900 through the early 1960's, has since taken root in the form of the American tuna industry, key provider of manufacturing jobs in the territory, and along with government, the largest employer and driver of the economy. That said, economic growth commensurate with population growth and the cost of living in the modern world, has not been sufficient to enable the territory to subsist without subsidies from the United States.

Social and educational advancement has been significant over the recent half century. American Samoa has an improved standard of living well above that of its island neighbors, mandatory education from K through 12th grade, including U.S. accredited high schools and an accredited community college now offering four year degrees in specialized areas. Young American Samoans, and other young people from a diverse population that includes Pacific Islanders, Asians, and Americans, have ready access to American universities and the United States Armed Services. This is not to say the quality of local education cannot be improved upon, because it can, but on the other hand if we measure progress by steadily moving forward, then we are on the right track.

Political aspirations and the progressive development of free political institutions:

American Samoa has covered a considerable distance since our forefathers made the voluntary decision to cede sovereignty over our islands to the United

States, which accepted the Deeds of Cession by Act of Congress in 1929. We adopted a constitutional form of government in 1960, and then our current Revised Constitution of American Samoa in 1967, which was approved by the then-Secretary of Interior. We have since elected our own Governor and Legislature. We make our own local laws. And we control our own customs and immigration borders.

Notwithstanding these major developments, there are significant shortfalls in our form of government. For example, our government continues to exist by virtue of delegation of authority from the President of the United States, to the U.S. Department of Interior, and then to us. Our Legislature cannot override a veto of a bill by the Governor without the approval of the Secretary of Interior, and our Constitution cannot be amended without the approval of Congress, despite Congress never having approved our Constitution to begin with. The Secretary of Interior continues to appoint the senior members of our Judiciary.

As stated in previous statements before this body, our legal status is indeed a relic of colonial days that needs to be remedied for us to meet what we believe to be the standards for consideration for de-listing by the Committee. But whether the territory is de-listed or not, what is more important to us, is the fact that our current legal status, as temporally satisfactory as it may be, leaves us exposed to vagaries in Washington D.C. that are beyond our control.

For example, and most importantly, we are exposed to actions of Congress affecting us in ways not contemplated because of our tiny land area, located in a large ocean, thousands of miles from the continental US, and economic circumstance. This exposure is exacerbated by the fact that American Samoa, like other US territories, does not have appropriate representation in Congress. Our one delegate to Congress is a non-voting member of the House of Representatives. As with other US territories, we have no representation in the Senate – each of the 50 states has two senators in the Senate.

We are also exposed to actions arising out of litigation in the U.S. Federal Courts that may contrive to have a judge in a remote courtroom issue a judgment that could change the legal status of our people under the U.S. Constitution (such as the citizenship case now pending in Washington, D.C.). Further, our political status, such as it is, exposes American Samoa to coercive tactics of federal agencies as exemplified by recent actions of the Federal Aviation Agency (prohibiting the American Samoa Government from using approximately 325 acres of local government land without prior approval of the FAA, as a condition to releasing federal funds which are rightfully due to

American Samoa for airport operations) and the Western Pacific Regional Fishery Management Council (authorizing large longline fishing boats to invade the protective 50-mile zone around American Samoa, which was previously preserved for fishing by local alias and traditional Samoan fishermen).

Until we are able to cast our political status in a concrete fashion, giving us concrete protections, the fact that we live under a delegation of authority from Washington, D.C. make us vulnerable.

Economic considerations:

We think that Chapter XI of the United Nations Charter, when discussing the development of self-government in the context of “the particular circumstances of each territory and its peoples and their varying stages of advancement”, certainly must take into consideration the economic circumstances surrounding the territory in question.

In the case of American Samoa, as in the case of most if not all of the jurisdictions on the Committee’s list, the question of economic viability in the absence of reliance upon the administering country’s resources must be taken into consideration. Achieving greater economic self-sustainability allows greater choices to be considered, and perhaps made if the people so choose.

Although the U.S. has provided for and assisted American Samoa’s economic growth through the years, certain U.S. federal laws have had and continue to have a debilitating impact on American Samoa’s ability to achieve sustainable economic growth.

One such law is the scheme of U.S. cabotage laws that prohibit non-domestic U.S. air carriers from transiting between American Samoa and other U.S. “domestic” destinations. The practical impact of this is to stifle our tourism development opportunities, as we have a small, relatively undeveloped tourism infrastructure, which is heavily reliant on onward passage to attract potential tourists who are en-route to other destinations. Because our natural tourist market is Australia and New Zealand, and any likely onward passage to Hawaii or the United States, we remain severely underserved by the long-haul market. We remain hopeful that recent efforts by the Department of Interior to secure certain waivers from the stranglehold of cabotage will bear fruit and thereby allow American Samoa to explore opportunities for its tourism industry.

The entering into free-trade agreements by the United States with other countries likewise impacts our development opportunities. While “free trade” has resulted in enormous benefits for many, when free trade is between the United States and a low wage country, with environmental and occupational safety laws at lower standards than those mandated for the United States (and American Samoa), the result is to make American Samoa less competitive relative to the favored countries.

We recognize that the economic dilemma we face points out the need for the territory to be more proactive in determining its course for the future. But this is difficult for us to do alone, under our current circumstances. With the support of our administering power, it is our goal to address these issues in the near future.

The way forward:

Throughout its long relationship with the United States, the administering power has been a benevolent, although sometimes near-sighted, overseer of our growth and development. At no point in time has the United States acted contrary to the expressed wishes of the people of American Samoa. When a constitutional form of government was the will of the people, it happened. When the people wanted to elect their own governor, it happened. When the people felt that Congress should protect them from the possibility of unilateral changes to the Constitution by the Department of Interior, it happened.

What our people have begun to do is chart our course for the future. This effort began with the Constitutional Convention in 2010, which resulted in over 30 proposed amendments to the Revised Constitution of 1967. Several of the amendments touched on areas affecting political status, without addressing the subject matter directly. Unfortunately, the multiple amendments were packaged for a vote on an “all or nothing” basis, and frankly, the sum of it was a lot for any electorate to digest. Approve the entire package of amendments, or they all fail. Needless to say, enough people objected to one or more of the multiple amendments to result in our failure to adopt any.

Last year, the government adopted a more measured approach. The Fono (the Legislature of American Samoa) approved a single constitutional amendment to be placed on the ballot—to remove from the veto override process the requirement that the Secretary of Interior approve any Fono override of a Governor’s veto. This first small step was encouraged by the Governor in his State of the Territory Address. Although the measure was ultimately defeated

at the polls, the effort sparked a lively public debate among voters and local residents about American Samoa's political status and future.

The next steps will require continued serious dialogue among all the people of American Samoa. Addressing the role of Congress in approving changes to our Constitution, which will require an act of Congress, shouldn't be undertaken until we engage in serious discussions about our future.

Our choices are varied, and profound: (i) maintain the status quo, which causes us continuing concern due to the future uncertainties outlined above; (ii) consider an Organic Act, like Guam and the Virgin Islands, which would draw us closer to the United States, but on the other hand would likely lock us into economically untenable circumstances; (iii) look to the idea of Commonwealth status akin to Puerto Rico and the Commonwealth of the Northern Marianas Islands; (iv) consider some form of free association with the United States as in the case of Palau and Marshall Islands; or (v) full independence. All are possible. Not all are viable.

For a people that have been loyal members of the American family for well over 100 years; whose patriotism is manifested in one of the highest rates of enlistment from any State or territory in the Armed Forces of the United States; for people who carry U.S. Passports and whose extended families live across the United States as well as abroad; for people for whom the United States has opened its arms as the land of opportunity; these are not easy choices to make.

It was not so long ago, back to the 1970's, that many American Samoans did not support the idea of electing our own Governor. That time has long past. Although the proposed constitutional amendment failed last year, the resulting public discourse suggests that American Samoa is ready to take the next step of entertaining serious discussion about what our future political status should look like. However, until such time that our people have exercised our right to determine for ourselves our future political status, it is perhaps best that American Samoa remain on the UN Decolonization List.

Before I close, I wish to extend an invitation to this Committee from Governor Lolo Moliga to visit our island territory in the near future or for your next meeting.

Thank you for the opportunity to be heard before the Special Committee. Soifua.