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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

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International Decade for the Eradication of Colonialism:
priorities for the remainder of the Decade

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(American Samoa)

DISCUSSION PAPER

TUFELE LI'AMATUA'S
STATEMENT
BEFORE THE

SPECIAL COMMITTEE ON THE SITUATION
WITH REGARD TO THE
IMPLEMENTATION OF THE
DECLARATION ON THE GRANTING OF
INDEPENDENCE
TO
COLONIAL COUNTRIES AND PEOPLES

May 14, 2008 - May 16, 2008
Indonesia

Tufele Li'amatua's Statement
Before the
Special Committee on the Situation with regard to the
Implementation of the Declaration on the Granting of
Independence to Colonial Countries and Peoples
General Assembly – United Nations

This once in a life time opportunity to participate in the Special Committee on the Situation with regard to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples seminar is sincerely appreciated. The people of the Territory of American Samoa acknowledges with much appreciation the continued vigilance of the United Nations to ensure that the principles inherent in the Second International Decade for the Eradication of Colonialism are achieved as demonstrated by the convening of this Pacific Region Seminar. Being one of the two United States Territories which still have not been de-listed, this Seminar is significant given issues of unique circumstances which might not fit the ultimate envisioned product of decolonization. For example, the recently completed report of the 2006 American Samoa Political Status Study Commission issued last year recommended the reaffirmation of our current political status and relationship with the United States in the form of an "unorganized and unincorporated" Territory. This recommendation will be placed before the people of American Samoa for a decision. There is an additional caveat to the recommendation. It states that further negotiations should be conducted with the United States with the intention that an acceptable political status mold, better than status quo, will emanate. This issue will be addressed further subsequently in this discussion.

American Samoa

American Samoa is an "unorganized and unincorporated" Territory of the United States located at 14 degrees south latitude and about 170 degrees west longitude. The Territory consists of seven (7) tropical islands and is the only U.S. soil located south of the equator. American Samoa comprises the eastern islands of the Samoan group. American Samoa is about 2,300 miles southwest of Hawaii, over 4,100 miles southwest of San Francisco and about 1,600 miles northeast of New Zealand.

The seven (7) American Samoa islands are dispersed over 150 miles of water. The capital of American Samoa is Pago Pago, located on Tutuila, the main island of the group. Tutuila has a land area of approximately 56 square miles and is home to over 95 percent of the estimate population of 65,000. The harbor at Pago Pago is one of the deepest and

best protected in the South Pacific. The total land area for all the islands is 76 square miles. The remaining islands are Aunu'u, a small island off the southeastern tip of Tutuila; the Manu'a Islands, consisting of Ofu, Olosega, and Ta'u and located about 60 miles east of Tutuila; Rose Atoll, an uninhabited wildlife refuge located east of the Manu'a group; and Swains Island, a small privately-owned coral atoll located several hundred miles north of Tutuila.

The location of these islands in the path of the Southeast trade winds results in frequent rains and a pleasant, warm tropical climate. The year-round temperature ranges from 70 to 90 degrees, depending on the warmth of the surrounding ocean. The humidity averages about 80 percent during most of the year. Average annual rainfall is 200 inches, with the heaviest rains occurring between December and March.

The mountainous terrain of American Samoa, along with the heavy annual rainfall, has an impact on agriculture and the food supply. The main determinant of land use is topography and only about one third of the land in American Samoa is level or nearly level. The soil of the mountain slopes is very thin as a result of leaching and will support only tough jungle vegetation.

American Samoa's Social Structure

American Samoans are among the last remaining true Polynesians, along with the Hawaiians, Maoris, Toggans, and Tahitians. Despite the strong influence of Western industrial culture, the Samoans are seen to be more tenacious in holding on to our traditions and culture. American Samoans still keep the aiga, or extended family, as the basis of our social structure. The senior chief, or 'matai' holds control over all of the family's land and property. He is responsible for the well-being of the family, as well as for its representation in the village and district councils. For the extended family to exist and function, every member must contribute to the welfare of the group. Each individual has duties to perform, from the trustee functions of the senior chief down to the most elementary tasks carried out by the children. The family group also owns land, and it is estimated that about 94% of the total land acreage in American Samoa is communal family land.

American Samoa's Political Structure

In 1900 the people of Tutuila and Aunu'u entered into a formal treaty of cession with the United States. In 1904, King Tuimano'a Elesara of Manu'a executed a treaty of cession

bequeathing the sovereignty of the Manu'a Island to the United States. The U.S. Navy first administered the territory and it appoints governors to oversee government operations. In 1951, administrative responsibility was transferred by Executive Order to the U.S. Department of the Interior. The Constitution of American Samoa, approved by the Department of the Interior in April of 1960, established three branches of government; executive, legislative, and judicial. The executive branch was headed by governors and lieutenant governors appointed by the Department of the Interior for four (4) year terms. The Department of the Interior approved the wish of the people to elect their own leaders and in 1977 this step towards self-governing was achieved.

Since 1900 and 1904 respectively, American Samoa's political status is defined as an "unorganized and unincorporated" Territory of the United States. It is unincorporated because not all provisions of the U. S. Constitution apply to the Territory. It is unorganized because the U.S. Congress has not provided the territory with an "organic act" which would organize the government much like a constitution would. Instead, the U.S. Congress gave plenary authority over the territory to the President of the United States who has delegated the authority to the Department of the Interior. The Secretary of the Interior allowed American Samoa to draft our own constitution under which our government now functions.

American Samoans are not United States Citizens but we are classified as United States nationals and have the freedom of entry into the continental United States. American Samoans can serve in the Armed Forces of the United States. However, American Samoans cannot vote for the President of the United States.

It has been said that the Territory of American Samoa was unique compared to its sister insular possessions because its acquisition was not a product of annexation or from the distribution of the spoils of war. It is well documented in the history books that the chiefs of Tutuila and Aunu'u, together with King Elesara of Manu'a, freely bequeathed their respective sovereignties to the United States. While such a distinction is noted, the actual distribution of the Samoan islands was determined by the Washington Convention Treaty signed by the United States and Great Britain in 1899. The two treaties orchestrated by Commander Tilley for Tutuila and Aunu'u in 1900 and Manu'a in 1904 only confirmed the outcome of the Washington Convention, and the inherent belief that the islands were already its possession. It supported its contention that the two treaties were just instruments of cessions. It is for this reason that the United States does not hold any obligation to see that the aspirations of the people of American Samoa are fully realized. The United States' actions were purely motivated by its desire to lay claim on the most

naturally protected harbor in the entire Pacific. Sadly its interest, particular to improving the quality of life for the inhabitants of the islands, was not as compelling.

American Samoa's Economy

The primary economy of American Samoa consists of government activities (about one-third of total employment) and the two tuna canneries (one-third of total employment). The remaining one-third of employed workers is in the secondary economy, which consists mainly of retail and service enterprises. Many firms in the secondary economy provide goods and services to the canneries. The economy of the Territory has not changed structurally since the inception of the two tuna canneries. Textile manufacturing came and left. Other processing and manufacturing companies have not been able to replicate the success of the canneries in the Territory. The continued presence of the canneries in the Territory is being threatened by the U.S. Congress mandated annual minimum wage escalation of 50 cents in the Territory's minimum wage which is to be continued until the U.S. minimum wage is reached. While the canneries have not made public its future plans, rumors seem to indicate that the canneries will in the short-run reconfigure their operations, converting to maximum utilization of the existing loining processing technology. All of the labor intensive parts of the canning operation will be done at locations with low wages, with the final product completed in the Territory. It is estimated that the canneries' workforce could be reduced by as much as 80% of the current levels. This will wreak economic and social havoc on the people of the Territory. At an annual average private sector salary of \$10,000, 40 million dollars of purchasing power will immediately be eliminated and taken out of the territory's economic system. This action by the U.S. Congress also handicaps the Territory from attracting foreign investment necessary for economic diversification. Moreover, the Federal Government has recalled incentive schemes which provided some level of competitive advantage to American Samoa.

The economic future of the Territory is very bleak, The absence of economic potentials is in part contributive to the people's overwhelming declaration of maintaining political status quo.

Prospects for Decolonization

Every time the question of sufficiency of our political status came up for review, in unison, the people overwhelmingly opted for status quo. The response brought no surprises given the fact that the territory continues to receive financial assistance from the

United States to fund approximately 70% of government activities. American Samoans could travel freely in and out of the United States without any immigration hazards. American Samoans could setup residence in any of the states of the United States. Except for the privilege to vote for the President of the United States, American Samoans receive equal treatment under the laws of the United States. It is natural therefore for the people of American Samoa to wish to maintain political status quo.

In spite the overwhelming declaration by our people to maintain political status quo, based on the reasons documented above, there exists prevailing reasons deep rooted in the make up of American Samoans which solidify and provide impetus to the desire not to pursue a different form of political status relationship with the United States. American Samoans are defined by their rich and dynamic culture which is founded on the principle of reciprocity and pooling of family resources. The salient element which provides the adhesive force and sustainability capacity of our culture over thousands of years is the communal ownership of 94% of all land. When our forefathers bequeathed our respective sovereignties to the United States, they required recognition of our desires for the preservation of our land tenure system. This language is contained in the Treaty of Cession for the islands of Tutuila and Aunu'u which memorializes the commitment for the protection of our system of land ownership : "The Government of the United States of America shall respect and protect the individual rights of all people dwelling in Tutuila to their lands and other property in said District; but if the said Government shall require any land or any other thing for Government uses, the Government may take the same upon payment of a fair consideration for the land, or other thing, to those who may be deprived of their property on account of the desire of the Government". In the Deed of Cession for the Manu'a Islands these words are contained expressing the same sentiments respecting the preservation of our land tenure system: "It is intended and claimed by these Presents that there shall be no discrimination in the suffrages and political privileges between the present residents of said Islands and citizens of the United States dwelling therein, and also that the rights of the Chiefs in each village and of all people concerning their property according to their customs shall be recognized.

It took the U. S. Congress twenty-nine (29) years since the American Samoa Island group was deeded to the United States to officially accept the deeds of cessions memorialized by the passage of Title 48 of the United States Code Section 1661 and 1662 which provide:

"§ 1661. Islands of Tutuila, Manu'a, and eastern Samoa; ceded to and accepted by United States; revenue; government.

“(a) The cessions by certain chiefs of the islands of Tutuila and Manu'a and certain other islands of the Samoan group lying between the thirteenth and fifteenth degrees of latitude south of the Equator and between the one hundred and sixty-seventh and one hundred and seventy-first degrees of longitude west of Greenwich, herein referred to as the islands of eastern Samoa, are accepted, ratified, and confirmed, as of April 10, 1900, and July 16, 1904, respectively.

“(b) The existing laws of the United States relative to public lands shall not apply to such lands in the said islands of eastern Samoa; but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the said islands of eastern Samoa for educational and other public purposes.

“(c) Until Congress shall provide for the government of such islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned. (Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4.)”

The Congress of the United States in the above cited law accepted the legitimacy of our present form of land tenure system. Unfortunately, it also clearly establishes the powers of the United States Congress over the management and disposition of all lands on Tutuila, Aunu'u, Manu'a, and Swains. Given enough pressure from its citizenry, the Congress of the United States could alter its position providing the privilege to all U.S. Citizens to purchase land as is the case in all States of the Union.

It is the universal belief among Samoans that if this land tenure system is altered in any fashion, their culture will begin to dissipate. There is real fear therefore that if the Territory was to change its political status to better define its relationship with the United States by having Congress approve an organic act, the current protection for land ownership inherent in the deeds of cessions maybe determined to be unconstitutional because it will violate the basic democratic principle of equal rights. As long as there is this uncertainty, the American Samoans will continue to choose status quo. It is unlikely that the Territory of American Samoa will aggressively pursue an alternative political status. While American Samoans have acclaimed their status as Americans, they equally celebrate their uniqueness defined by its culture. This dilemma has faced the Territory of American Samoa since its assimilation into the American family dating back to 1900.

Issues such as establishing the federal court system in American Samoa, automatic U.S. Citizenships for American Samoans, electing Senators by popular vote, to name a few, are continually being debated. Yet, at the end of the deliberations, the majority elects not to change. The underline fear is again predicated on the possible adverse impact of these actions on our land tenure system. It is quite clear that American Samoans will not sacrifice its culture and land tenure system for a change in political format which might generate more benefits. The strength of this resolve has not been tested since it is now over 108 years and both parties seemed to tolerate the prevailing relationship defining the association of American Samoa to the United States. Both parties appear unwilling to engage each other on addressing the existing contradiction. Unless the land ownership issue is settled, American Samoans will not entertain a change in its political status.

American Samoans are very concerned with its very limited economic options exacerbated by federally induced minimum wage hikes which are threatening the continued presence of the canneries or transformation of their operations forcing the direct termination of over 80% of the canneries' workforce and residual workforce reductions in the government and the private sector. Regrettably, the demise of American Samoa's canneries is being perpetrated by federal policies. It makes very little sense that our parent country is responsible for the economic hardship that will be faced by the residents of American Samoa. Instead of improving our economic viability and long term economic , the U.S. Government has been primarily responsible for the economic instability experienced by the Territory since the delegation of administrative authority to the Department of the Interior. The Bilateral Trade Agreements the United States negotiate with other countries always jeopardize the economic interest of the Territory of American Samoa. The package of federal incentives which improved American Samoa's competitive advantage are slowly being eliminated thus killing any advantage to entice entry of foreign investments integral to our economic development efforts. American Samoa is natural resource poor except for its people and scenic beauty. Only one-third of total land acreage is below 30 degrees slopes. These geographic attributes and lack of natural resources compels the Territory of American Samoa to hold on to its association with the United States despite the existing contradictions.

American Samoa Political Status Study Commission Recommendations

The 2006 American Samoa Political Status Study Commission, which I had the honor of chairing released its report on January 2, 2007. The Commission presented its main recommendation along with supporting recommendations. The main recommendation stated "American Samoa shall continue as an unorganized and unincorporated territory

and that a process of negotiation with the U.S. Congress for a permanent political status be initiated". The recommendation also listed the points forming the basis for the negotiations with the U.S. Congress. These are:

1. A specially tailored Act of Congress is needed to reaffirm the special protective provisions for lands and titles in the Constitution of American Samoa.
2. Such an Act may be passed without changing the present political status.
3. Federal courts have upheld similar special protections provisions in the congressionally approved Covenant of the Commonwealth of Northern Mariana Islands (CNMI).

It is obvious from the main recommendation that the "status quo" status per se was no longer sufficient to satisfactorily accommodate the demands of a more progressive society transformed by the technological revolution. It reaffirms the basic concern of the people relative to the protection and preservation of their land tenure system. There is some sense of urgency to address the land tenure issue because economic considerations are intrinsically interwoven. For example, programs of the international financial institutions for venture and development capital such as the IMF, World Bank, and Asian Development Bank can not be accessed by American Samoa. The opportunity to receive international and foreign aid is not available because of the attached prohibitions being a Territory of the United States. Although there is clear acknowledgement and recognition of the insufficiency of our present political status, as long as the land issue is not settled, American Samoa will have no choice but to maintain its present political relationship with the United States. At this juncture of its political journey, American Samoa has no recourse but to continue the present setup. It is important to note however that whatever changes the territory elects to redefine its political status, the constant that will not be modified or altered is the overwhelming desire of the people of American Samoa to continue its association with the United States of America in some fashion or form.

American Samoa's perception on its Colonial Characterization

There are prevailing elements of American Samoa's relationship with the United States which are deemed to take on the colonial mode. For example, the constitution of American Samoa has to be approved by the U. S. Congress before it is deemed valid. The U. S. Congress has the ultimate power to legislate any law to regulate activities in the territory with or without the consent of the people of American Samoa. Similarly, the Department of the Interior has the absolute power over the Territory. Legally, it can annul

local elections or evict a governor from the position. While the authority is given to the people to elect leaders, the federal laws have not been amended to delimit the powers of the Department of the Interior over the affairs of the local government. The imbalances within the internal government have not been changed to ascertain the full force of self-governing. Instead, the facade of self-governing is there, but its functionality continues to be compromised.

Irrespective of the continuing presence of these colonial attributes which would legitimize our designation and subjugation as a colony of a foreign dominant power, the people of American Samoa have continually acquiesced to the maintenance of its current political status relationship with the United States. This universal acceptance of our political relationship with the United States should ease the concerns of the Special Committee over the demand by the General Assembly that the most important criteria of any political status is the degree of acceptance by the majority of the people of the area. There is no question that American Samoa meets this criteria or decolonization standard.

American Samoans are proud to be Americans. This pride is exhibited in every war theater in which the United States is involved. Many American Samoans have also paid the ultimate price connected with the preservation of freedoms and civil liberties enjoyed by all free countries of the world. It is therefore inevitable that American Samoans will fashion political changes which will strengthen relationships with the United States. Our fates have been entwined. American Samoans therefore never felt what it's like to be subjugated or colonized. The option is available to any American Samoan desirous of becoming a U.S. citizen if the status of United States National conjures feelings of being a second class citizenry.

The current political status of the Territory of American Samoa legitimizes our being listed as a continued colony of the United States. At the same time, it is by choice that we maintain our present political classification. American Samoa is a dependent country and no doubt it will continue to assume this role in the future by the mere fact that it is resource poor with limited arable land to support proper economies of scales development to become competitive in the world market or if purely to address import substitution goals. Logistical impairments are exacerbated by the out of control cost of energy. Given these constraints, political options available to American Samoa are likewise limited.

American Samoa however registers its genuine appreciation to the Special Committee for endeavoring to accept this noteworthy duty to ensure that all peoples of the world are not been subjugated against their will. It is also our hope that the General Assembly take on

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as a responsibility the development of small countries will limited economic capacity to bolster their wherewithal so hunger and starvation is total eliminated. Lack of economic options forces small countries to adopt political statuses which do not neatly address aspirations. American Samoa has been very blessed to have been associated with the United States, because we have not experienced, throughout the 108 years of association, any abuse of our human rights and civil liberties in spite claims last three years where the Federal Bureau of Investigations handcuffed local residents and took them off the island for arraignment in defiance of local laws and jurisdictional issues.

It might be necessary for the Special Committee to recommend to the General Assembly to provide a new definition to recognize special cases like American Samoa where the people are fully contended and accepting of the prevailing political status even though it does not neatly fit the mold of decolonization. After all, the linchpin of the United Nation's efforts towards decolonization is ensuring that all people of the world enjoy the same human rights deemed standard for all children of God.

Thank you again for this chance to participate in this very critical seminar.

Afioga Tufele Li'amatua
Chairman
Political Status Study Commission
American Samoa