

**STATEMENT OF
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Talofa from American Samoa! Assistant Secretary Anthony Babauta, Director of White House Office of Intergovernmental Affairs, Governor Fitial, Governor Calvo, Governor de Jong, Greetings to representatives of Cabinet departments, Ladies & Gentlemen:

I have enjoyed our annual IGIA meetings over the years, and regret to say that this will be my last IGIA meeting as Governor of American Samoa. American Samoa's Constitution does not allow me to run for a third consecutive term of office. So on January 3, 2013, our new Governor will take over and he will continue this work with you by this time next year. It has been my distinct pleasure and privilege working with you and your agencies, and I ask that you continue to do the same for our new leaders.

Today I will briefly summarize conditions and trends in American Samoa as they relate to the IGIA. I will then leave you with a few thoughts on the future relationship of the US and its territories.

As with the US, American Samoa's economy is recovering very slowly from the adversity of the 2008 global financial collapse and recession. American Samoa's recession was exacerbated by a devastating tsunami and the imposition of the US minimum wage in American Samoa. Federal legislation in 2007, as you are all aware, raised the federal minimum wage in the U.S. from \$5.15 to \$7.25 per hour

over 3 years. And, for the first time, that legislation mandated a series of \$.50 per hour increases to the minimum wages in both American Samoa and CNMI, beginning in July 2007 to continue until they reach parity with the federal minimum wage. This eventually would more than double the minimum wage in American Samoa.

We received some temporary relief in 2010. Congress saw fit to delay the fourth scheduled minimum wage increases in American Samoa (and the CNMI) in 2010 and 2011. But those increases are scheduled to resume this year, unless Congress accepts the results of two GAO studies that concluded that the quick rise in the minimum wages in American Samoa resulted in loss of jobs and frustration of the economy. We are awaiting House of Representatives action on the Senate Bill that will further delay minimum wage increases due to poor economic and employment conditions in American Samoa.

In any event, American Samoa's minimum wage was raised three times, an increase of \$1.50 per hour. This represented as much as a 50 percent increase in the minimum wage in some industries.

This contributed to employment losses across all industries and contributed to the closure of one of two major canneries in 2009. Total employment declined by an estimated 30 percent by 2010. The rate of unemployment reached almost 20 percent by 2010.

The GAO reports in 2009 and 2010 mentioned above, substantially confirmed the magnitude of the employment losses I just referenced. In fairness, GAO did not attribute all of these losses to the rising minimum wage. While it is true that there

were other influences at work that contributed to the economic conditions at the time, especially in the fish canning industry, we were privately informed that the threat of continuing increases in the minimum wages was the cause of the closure. Nevertheless, there were substantial losses in most industries, and GAO surveys of the business community indicated a strong role for the rising minimum wage in employment reductions.

I cite the minimum wage as just one, albeit a very critical issue to American Samoa's economic future, that is essentially in the hands of the federal government. There are many other federalization issues including international trade policy, corporate tax policies, deregulation of aviation and air transportation, and several others. As it stands, federal issues concerning the territories are decided in the absence of any guiding federal policy or consideration of the effects on those territories. (Even in areas that do not relate directly to economic development, for example the exclusion of the territories from the "Race To The Top" education programs.)

You need not take my word for the lack of a US development policy for US territories. Former deputy assistant secretary of the Interior for Territorial and International Affairs, Allen Stayman, puts it quite succinctly,¹

"In the case of the unincorporated territories, however, there is no political status goal, and therefore no policy-guiding principle. These islands remain in a status

¹ Allen P. Stayman. *U.S. Territorial Policy: Trends and Current Challenges*, East West Center, 2009. Mr. Stayman is presently a professional staff member of the US Senate Committee on Energy and Natural Resources.

limbo, neither fully domestic nor foreign – a condition that complicates the development of solutions.”

The good news is that we may be leaving limbo; the bad news is that we may be going to purgatory for an extended stay before we get to the Promised Land.

Mr. Stayman continues:

“Trends in national tax, trade and wage policies (toward the territories)... are maturing into crises with the CNMI likely to lose at least half of its 2005 economy by 2010, and American Samoa at serious risk of losing as much as 90 percent of its economy over the next five years.”

(Mr. Stayman was likely referring to 90 percent of American Samoa’s economic base, the canneries, and not 90 percent of the entire economy.)

Mr. Stayman concludes: “Unless Island leaders can join with the Obama administration to develop targeted economic revitalization plans... and obtain needed Congressional support ... there will probably be significant economic contraction in the CNMI and American Samoa.... Under normal economic conditions, I would be confident that federal and Island policymakers, even without policy-guiding principles, would develop effective policies and muddle through. I am more concerned that federal officials may be unable either to find the necessary financial resources or focus their scarce time on creatively responding to the challenges of these territories.”

I am not faulting Mr. Stayman for this. He very accurately describes current US policy toward its territories. That is, muddling through is good enough. Well I am here to tell you this: Just muddling through is no acceptable substitute for effective policy.

A general federal policy on the territories would include not just economic development. It would also include education, health care, environmental, political status and other policy areas affecting economic development.

Had such a federal policy been in place, those federal economic development concessions in the minimum wage, international trade and federal territorial taxation might not have been revoked. Or, they might have been modified or replaced by other programs less damaging to US territories.

There was simply no comprehensive federal policy framework to prevent the demise of these tools or to consider new tools to replace them. There is more than enough authority, even mandates, for the formulation of such federal policies to guide federal legislation, regulations and policies as they affect the territories. Even in the absence of such federal policy, I asked the IGIA in 2007 to provide for an update of work that was performed by Ruth G. Van Cleve, which proved useful to us, entitled "*The Application of Laws in American Samoa, the Northern Marianas Islands and Guam.*" Absent a cohesive, comprehensive policy framework, this work was at least a guide for how to navigate application of federal law in the Territories.

The need for a federal policy framework for its territories is longstanding and overwhelming.

1. The American Samoa Economic Advisory Commission recommended federal policy development toward the territories including:
 - a. DOI should devote more resources to coordinating federal policy for American Samoa.
 - b. DOI should become more of an advocate for American Samoa.
 - c. DOI and Treasury should track and find applications for technological advances and trends in transportation, telecommunications and trade.
 - d. US should grant American Samoa better economic treatment and opportunities than most favored trading and political partners. (For me, I would settle for “equal footing” with those trading partners)

2. Over the years, GAO and others have suggested similar federal long term economic policies for the territories.

In addition, Federal law (Title 48 U.S.C. § 2002 : US Code - Section 2002) requires the Secretary of the Interior to submit to the Congress and the President a report on United States Pacific Insular Area policy together with such recommendations as may be necessary to accomplish the objectives of such policy. These reports are required to set forth clearly defined policies regarding the United States and its Pacific Insular Areas including:

1. The role and impacts of the Pacific Insular Areas in the formulation and conduct of foreign policy.
2. The applicability of Federal laws, regulations, and programs to the Pacific Insular Areas and any modifications which may be necessary to achieve the

intent of such policies, consistent with the unique character of the Pacific Insular Areas.

3. The effectiveness of the Federal organizational arrangements.
 - a. To provide liaison between the Federal Government and the Pacific Insular Areas.
 - b. To coordinate Federal actions considering the unique circumstances and needs of the Pacific Insular Areas.
 - c. To ensure that the Congress receives the information necessary to discharge its responsibilities.
4. The actions which may be needed to facilitate the economic and social development of the Pacific Insular Areas, consistent with their self-determined objectives.

In addition to this statutory requirement we have the IGIA Executive Order which in some respects was designed to complement such legislation. The previous Executive Order (August 9, 1999) described its functions as coordinating, collaborating, consulting, etc. The new Executive Order (April 14, 2010) describes IGIA's functions as follows:

“Sec. 2. Functions of the IGIA. The IGIA shall:

- (a) advise the President on establishment or implementation of policies...
- (b) solicit information and advice concerning the Insular Areas ...
- (c) solicit information and advice concerning the Insular Areas, as the IGIA determines appropriate, from representatives of entities or other individuals in a manner that seeks their individual advice...
- (d) solicit information from executive departments or agencies for purposes of carrying out its mission; and

(e) at the request of the head of any executive department or agency who is a member of the IGIA, with the approval of the Co-Chairs, promptly review and provide advice on a policy or policy implementation action affecting the Insular Areas proposed by that department or agency.

Sec. 3. Recommendations. The IGIA shall:

(a) submit annually to the President a report containing recommendations regarding the establishment or implementation of policies concerning the Insular Areas; and

(b) provide to the President, from time to time, as appropriate, recommendations concerning proposed or existing Federal programs and policies affecting the Insular Areas.”

I regret to say that I have never seen an IGIA report to the President. As far as I can tell the only reports or testimony on the OIA (IGIA) website is now exclusively that of federal agencies. Previously, Insular Area testimony has been on the site, but it appears that this has been discontinued. While this current approach highlights the federal actions on Territories’ issues, it does not provide the proper context, which in this case, are the requests of the Territories. In other words, this approach gives the impression that federal agencies are working on certain Territorial issues, and the reality continues to be that some major issues go unaddressed.

One serious result of this is that the pivotal issue of minimum wage in American Samoa was not even mentioned by the IGIA in 2011, even though it was one of, if not THE critical issue in recent years to the IGIA.

We are also aware of the limitations of such interagency groups. In the past few years you have made recommendations to improve the IGIA's operation. Those recommendations were fully consistent with the new Executive Order for IGIA. Some of the federal agency testimony has been useful, but it does not often go to Insular Area priorities.

We have had some notable achievements especially in getting the US Department of Labor to take over the estimates of GDP for the territories and securing observer status for us with the Pacific Island Forum.

We have had less success with IGIA on issues of minimum wage and Insular Area exemptions from DOT air service cabotage restrictions, which have been raised every year by American Samoa. Although US cabotage policy has been raised, there has not been any analysis of why this policy must continue to hold sway over a major economic development factor for Territories such as American Samoa. Therefore, I am asking IGIA for a substantive look at cabotage – a study to make the case that cabotage makes more economic sense to small territories as opposed to opening restricted markets to foreign operators who may jump start and maintain major economic development to our small, fledgling economies. If maintenance of this policy does not have a major cost to the federal government, then it would not stand to reason that this should continue to hamper economic development.

I honestly believe that if we take a consistent and resilient approach to these issues, the US territories could get a new lease on economic development life. However, we must still translate these good words to deeds, and that is going to require organization and effort.

I am not ungrateful for what the IGIA has been able to do for the Territories. This is not the crux of my message here today. Many of the programs underwritten or administered by your departments in the standard grants and special programs do benefit our territories tremendously, but, as you know very well, we cannot build our economic policies or development on those grant programs. We appreciate very much and are grateful for the support for our infrastructural and social development assistance. But if we expect the territories to be economically sound and self-reliant, we must accept the fact that the territories are unique and require special consideration in the fashioning and implementation of national policies in order to avoid the inadvertent consequences of such policies. That will only happen if there is in place a federal policy that guides those considerations and assure that we will not have to keep raising our hand and ask to please remember the territories.

Co-chairs and IGIA members, I am thankful for all that has been accomplished during my time with you and I thank you for that. However, I believe we can do better. I believe that in order for American Samoa to cultivate all that it deserves in this day and age, we must continue to strive to do better. And I sincerely hope that you agree with me.

Soifua ma ia manuia.