



Association of Pacific Island Legislatures

American Samoa
Commonwealth of the Northern Mariana Islands
FSM, State of Chuuk
FSM, State of Kosrae
FSM, State of Pohnpei
FSM, State of Yap
Island of Guam
Republic of Kiribati
Republic of the Marshall Islands
Republic of Nauru
Republic of Palau
State of Hawaii

A RESOLUTION

APIL Resolution No. 41-GA-01

“To urge the U.S. Congress, the Department of Transportation and the Federal Aviation Administration to grant transportation and cabotage exemptions for the Commonwealth of the Northern Mariana Islands (CNMI) to enhance economic development and connectivity within the Pacific region.”

1 **WHEREAS**, the Association of Pacific Island Legislatures (APIL) is an organization
2 that brings together the legislators of several Pacific political entities to address common
3 issues, promote cooperation, and foster regional development. APIL membership includes
4 Hawaii, U.S. territories of Guam, the Commonwealth of the Northern Mariana Islands,
5 American Samoa, the nations of Nauru, the Republic of Kiribati, and the Freely Associated
6 States composed of the Republic of Marshall Islands, Republic of Palau, and the Federated
7 States of Micronesia which includes the States of Chuuk, Kosrae, and Pohnpei, and Yap,
8 all of which share the vast expanse of the Pacific Ocean and the skies above; and

9 **WHEREAS**, the theme for the APIL 41st General Assembly, hosted by the Republic
10 of Palau from August 12-13, 2024, to wit “Human Development in Oceania: How can
11 legislatures strengthen people-centered security for the Pacific Islanders? The state of and
12 future perspective on food security, economic security, cyber security, and other indicators
13 of human development,” provided the opportunity to address cabotage laws and regulations
14 that significantly affect APIL member states, particularly, the Commonwealth, of the
15 Northern Mariana Islands, and Guam, due to their remote locations and the significant
16 transportation challenges that impact the flow of goods, services, and people to and from
17 the islands; and

18 **WHEREAS**, the Merchant Marine Act of 1920, better known as the “Jones Act” is
19 an example of a United States maritime cabotage law that significantly affects commerce
20 within the United States and requires that goods transported by water between U.S. ports
21 must be carried on ships that are: 1) built in the United States, 2) owned by U.S. citizens

1 or permanent residents, 3) crewed predominantly by U.S. citizens or permanent residents,
2 and 4) registered under the U.S. flag. With the notable exception of U.S. government
3 cargo, the CNMI is exempt from the Jones Act pursuant to 46 U.S.C. section 55101; and

4 **WHEREAS**, absent an exemption from cabotage such as the Jones Act, airline
5 industry cabotage law are enforced by restrictive regulations through the U.S. Department
6 of Transportation (DOT), via 49 U.S.C. sections 41101 and 41703, and the Federal
7 Aviation Administration, (FAA) via 14 CFR Parts 121 and 129. These regulations continue
8 to have a substantial adverse effect on the economies of APIL member states by increasing
9 the cost of imported goods, reducing the competitiveness of local businesses, and limiting
10 tourism potential; and

11 **WHEREAS**, DOT and FAA transportation and cabotage regulatory exemptions are
12 granted in the rare situations where there is a lack of U.S. carrier service or for humanitarian
13 reasons; and

14 **WHEREAS**, in 2018, Congresswoman Aumua Amata Radewagen from American
15 Samoa proposed and obtained overwhelming bipartisan support to amend 49 U.S.C. §
16 40109—the rule establishing the DOT’s power to grant cabotage exemptions. The
17 legislation adjusted the customary thirty-day review and exemption period to 180 days for
18 air transportation in American Samoa. Consequently, while foreign carriers typically must
19 apply to renew U.S. cabotage waivers every thirty days, those serving American Samoa
20 have six months. In that case, the “foreign-based” carrier was actually Samoan Airlines,
21 an airline from Western Samoa that was allowed to fly between two U.S. ports—within
22 American Samoa, Tutuila and Manu’a. This exemption has resulted in significant
23 economic benefits and increased transportation efficiency; and

24 **WHEREAS**, obtaining a cabotage exemption for foreign air carriers for other APIL
25 member states would result in enhanced transportation options that would attract more
26 tourists, reduce the cost of living for residents, provide better access to essential goods and
27 services, promote stronger economic ties and cooperation among Pacific Island nations,
28 which would ultimately contribute to the overall stability and prosperity of the region—
29 while still maintaining the safety and security of transportation routes; and

1 **WHEREAS**, under 49 USC § 40109(g), the U.S. Department of Transportation
2 (DOT) may authorize a foreign air carrier to carry commercial traffic between U.S. points
3 (i.e., cabotage traffic) under limited circumstances. Specifically, the DOT must find that
4 the authority is required in the public interest; that because of an emergency created by
5 unusual circumstances not arising in the normal course of business the traffic cannot be
6 accommodated by U.S. carriers holding certificates under 49 USC § 41102; that all possible
7 efforts have been made to place the traffic on U.S. carriers; and that the transportation is
8 necessary to avoid unreasonable hardship to the traffic involved (an additional required
9 finding, concerning emergency transportation during labor disputes, is not relevant here);
10 and

11 **WHEREAS**, the extension of cabotage rights to carriers serving APIL member states
12 would be significant and beneficial to their economies. Allowing foreign carriers to freely
13 serve the APIL member states achieves certain efficiencies and potentially creates
14 incentives for competitors to enter the market, thereby improving services and reducing
15 prices for the consumers; and

16 **WHEREAS**, without prohibiting the possibility of service by a U.S.-flagged carrier,
17 an extension of cabotage rights or an exemption would not prejudice the authority and
18 ability of federal regulators to qualify and control carriers, including by revoking cabotage
19 authority, or otherwise enforce existing laws, including rules respecting national security,
20 commerce, and aviation broadly; and

21 **WHEREAS**, in the United States Congress, H.R. 8786, introduced by Guam
22 Delegate to U.S. Congress, the Honorable James Moylan and the Honorable Gregorio Kilili
23 Sablan, the CNMI Delegate to U.S. Congress, supports an exemption to the cabotage laws
24 that apply to the Mariana Islands. This federal legislation was supported by the members
25 of the Mariana Islands Legislature Association (MILA) at their Second General Assembly
26 passed MILA Resolution No. 1-GA-2, “Relative to expressing support for the passage of
27 H.R. 8786, introduced in the United States House of Representatives, which seeks to
28 provide for a cabotage exemption for foreign air carriers landing on Guam and the Northern
29 Mariana Islands.”; and

1 **WHEREAS**, on August 8, 2024, the CNMI Legislature introduced HR 23-23 while
2 the Guam Legislature introduced two of their own resolutions relative to this cabotage
3 exemption issue addressed to the United States Congress, the U.S. Department of
4 Transportation and the FAA in an endeavor to resolve this issue at the congressional as
5 well as agency level. The Guam resolutions are: Resolution No. 441-37 (LS) “Relative to
6 expressing the support of H.R. 8786, introduced in the United States House of
7 Representatives, which seeks to provide for a cabotage exemption for foreign air carriers
8 landing in Guam or the Northern Mariana Islands,” and Resolution No. 447-37 (COR)
9 “Relative to requesting the United States Secretary of Transportation to authorize a
10 temporary twenty-four (24) consecutive month exemption to expand cargo and passenger
11 flexibility at the A.B. Won Pat International Airport Authority, Guam and allow certain
12 foreign air carriers to stop in Guam in the course of transportation of passengers or cargo
13 in either direction between a place in the United States and a place outside the United
14 States, and for other purposes”; and

15 **WHEREAS**, in the U.S. Congress, the FAA Reauthorization Act of 2024, which was
16 first introduced in the United States House of Representatives by Chairman Sam Graves
17 along with the bipartisan leaders of the Transportation and Infrastructure Committee and
18 the Aviation Subcommittee, which in the words of Chairman Sam Graves is “an example
19 of Congress putting in the work to pass major transportation legislation that will benefit
20 every American who uses the aviation system and every community that benefits from an
21 airport, no matter how large or small,” a cabotage exemption for foreign air carriers with
22 respect to the Mariana islands as set forth in H.R. 3935 would have the same type of
23 beneficial effects for the entire APIL membership, now therefore,

24 **BE IT RESOLVED** by the Association of Pacific Island Legislatures, 41st General
25 Assembly in the Republic of Palau, August 12-13, 2024, that the United States Congress,
26 the U.S. Department of Transportation, and the Federal Aviation Administration urgently
27 grant transportation and cabotage exemptions to allow foreign air carriers to fly between
28 the Mariana Islands, to wit, the CNMI and Guam, to enhance economic development,
29 reduce transportation costs, and improve regional connectivity—by amending and
30 repealing if necessary the relevant cabotage laws and regulations, including but not limited

1 to the Federal Aviation Act of 1958, as it is enforced through various parts of the Code of
2 Federal Regulations (14 CFR Parts 121 and 129) under the authority of the Department of
3 Transportation and the Federal Aviation Administration and 49 U.S. Code Section 4109 -
4 Authority to exempt; and

5 **BE IT FURTHER RESOLVED** that the APIL President shall certify, and the APIL
6 Secretary shall attest to the adoption hereof and that copies of the same shall thereafter be
7 transmitted to Sam Graves, Chairman of Transportation and Infrastructure Committee
8 Chairman, U.S. House of Representatives; Pete Buttigieg, Secretary, Department of
9 Transportation, Mike Whitaker, Administrator, Federal Aviation Administration, and to
10 the Chief Executives and Presiding Legislative Officers of each member jurisdiction of the
11 Association of Pacific Island Legislatures.

DULY AND REGULARLY ADOPTED ON THE 13TH DAY OF AUGUST, 2024.


EDMUND S. VILLAGOMEZ
ACTING PRESIDENT


VICTOR BAMOG
ACTING SECRETARY

