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Excellency:

On behalf of the Government of the Hawaiian Kingdom, being a non-Member State of the United Nations but a Member State of the Universal Postal Union since 1 January 1882, I should like to draw your attention to my Government's instrument of accession to the Rome Statute dated 28 November 2012 that was deposited with the United Nations Secretariat in New York City on 10 December 2012. It appeared that your predecessor, His Excellency Ban Ki-moon, did not provide a depository notification of accession to the Rome Statute by the Hawaiian Kingdom to the International Criminal Court.

In 2013, the Government of the Hawaiian Kingdom attempted to rectify this matter with the Prosecutor of the International Criminal Court, but to no avail. This caused me to send three letters of communication on behalf of my Government to Mr. David Nanopoulos, Chief of the Treaty Section, dated 13 December 2023,¹ 20 December 2023,² and 3 January 2024,³ and an email dated 22 February 2024.⁴ Mr. Nanopoulos, however, has not responded, which has prompted this letter on behalf of my Government to your Excellency.

The legal status of the Hawaiian Kingdom's continued existence as a State since the nineteenth century was acknowledged by the Permanent Court of Arbitration when arbitral proceedings were initiated on 8 November 1999 in *Larsen v. Hawaiian Kingdom*, PCA Case no. 1999-01. Prior to the formation of the arbitral tribunal on 9 June 2000, the Permanent Court of Arbitration recognized the Hawaiian Kingdom to be a non-Contracting State pursuant to article 47 of the 1907 Hague Convention for the Pacific Settlement of International Disputes that provided non-Contracting States access to the jurisdiction of the

¹ See letter from H.E. David Keanu Sai to Mr. David Nanopoulos, Chief, Treaty Section (13 Dec. 2023) (online at [https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_\(12.13.23\).pdf](https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_(12.13.23).pdf)).

² See letter from H.E. David Keanu Sai to Mr. David Nanopoulos, Chief, Treaty Section (20 Dec. 2023) (online at [https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_\(12.20.23\).pdf](https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_(12.20.23).pdf)).

³ See letter from H.E. David Keanu Sai to Mr. David Nanopoulos, Chief, Treaty Section (3 Jan. 2024) (online at [https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_\(1.3.24\).pdf](https://hawaiiankingdom.org/pdf/Ltr_to_Treaty_Sec_Chief_(1.3.24).pdf)).

⁴ See email from H.E. David Keanu Sai to Mr. David Nanopoulos, Chief, Treaty Section (3 Jan. 2024) (online at [https://hawaiiankingdom.org/pdf/Gmail_Re_Hawaiian_Kingdom's_Accession_to_the_Rome%20Statute_\(2.22.24\).pdf](https://hawaiiankingdom.org/pdf/Gmail_Re_Hawaiian_Kingdom's_Accession_to_the_Rome%20Statute_(2.22.24).pdf)).

Permanent Court of Arbitration.⁵ At the center of the international dispute was the alleged liability of the Hawaiian Council of Regency “for allowing the unlawful imposition of American municipal laws over the claimant’s person within the territorial jurisdiction of the Hawaiian Kingdom.”⁶ According to a legal opinion by Professor William Schabas, the imposition of American municipal laws within the territorial jurisdiction of the Hawaiian Kingdom is the war crime of usurpation of sovereignty during military occupation.⁷ I had the honor of serving as lead agent for the Hawaiian Kingdom in these arbitral proceedings that lasted from 1999 to 2001.

On 16 February 2022, the International Association of Democratic Lawyers (IADL) and the American Association of Jurists—Asociación Americana de Juristas (AAJ) sent a joint letter regarding the prolonged occupation of the Hawaiian Kingdom to all of the Permanent Missions accredited to the United Nations in both New York City and Geneva.⁸ The IADL and the AAJ are both non-government organizations that has special consultative status with the United Nations Economic and Social Council and are accredited to participate in the Human Rights Council’s sessions as Observers. The matter of war crimes and human rights violations committed in the Hawaiian Kingdom was brought to the attention of the United Nations Human Rights Council on 22 March 2022 during its general debate item 4.⁹ The IADL and the AAJ co-sponsored my delivery of the oral statement.

In addition to the war crime of usurpation of sovereignty during military occupation, Professor Schabas also concluded in his legal opinion that the following war crimes under customary international law are also being committed within the territory of the Hawaiian Kingdom:

- war crime of compulsory enlistment; war crime of denationalization;
- war crime of pillage;
- war crime of confiscation or destruction of property;
- war crime of deprivation of fair and regular trial;
- war crime of deporting civilians of the occupied territory; and the
- war crime of transferring populations into an occupied territory.

⁵ See Permanent Court of Arbitration’s 102nd Annual Report, p. 48 (2022) (online at <https://docs.pca-cpa.org/2015/12/PCA-annual-report-2002.pdf>).

⁶ See Permanent Court of Arbitration Case Repository, *Larsen v. Hawaiian Kingdom*, PCA Case no. 1999-01 (online at <https://pca-cpa.org/en/cases/35/>).

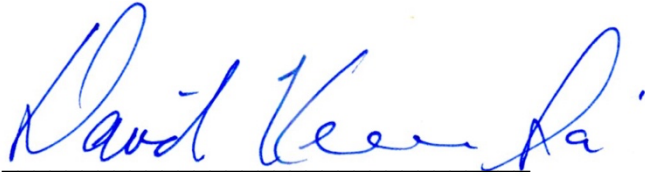
⁷ See William Schabas, “Legal Opinion on War Crimes Related to the United States Occupation of the Hawaiian Kingdom since 17 January 1893,” 3 *Haw. J.L. & Pol.* 334 (2021) (online at [https://hawaiiankingdom.org/pdf/3HawJLPol334_\(Schabas\).pdf](https://hawaiiankingdom.org/pdf/3HawJLPol334_(Schabas).pdf)).

⁸ See IADL-AAJ Joint Letter to the Ambassadors of Permanent Missions to the United Nations (16 February 2022) (online at <https://iadllaw.org/2022/03/iadl-and-aaj-deliver-joint-letter-on-hawaiian-kingdom-to-un-ambassadors/>).

⁹ See IADL-AAJ Oral Statement regarding US occupation of the Hawaiian Kingdom, United Nations Human Rights Council, 49th session, General debate, item 4 (22 Mar. 2022) (online at <https://iadllaw.org/2022/03/video-dr-keanu-sais-oral-statement-to-the-un-human-rights-council-on-the-u-s-occupation-of-the-hawaiian-kingdom/>).

In light of the aforementioned information, the Government of the Hawaiian Kingdom resubmits its instrument of accession to the Rome Statute dated 28 November 2012 and its accession to the Agreement on the Privileges and Immunities of the International Criminal Court dated 24 March 2024, which I have enclosed.

Please accept, Excellency, the expression of my highest consideration.



H.E. David Keanu Sai, Ph.D.
Minister of Foreign Affairs *ad interim*

His Excellency Mr. António Guterres
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Enclosures