



## H.E. DR. DAVID KEANU SAI

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29 October 2025

His Excellency Ambassador Dr. Tapugao Falefou  
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### NOTE

In 1999, the Permanent Court of Arbitration, in *Larsen v. Hawaiian*, PCA case no. 1999-01,<sup>1</sup> recognized that the Hawaiian Kingdom continues to exist as a State under customary international law since the nineteenth century, and the Council of Regency as its provisional government. When the arbitral proceedings came to an end in 2001, the Council of Regency focused its attention on exposing the false narrative that Hawai‘i was an incorporated territory of the United States instead of a State under a prolonged American occupation since January 17, 1893, through academic research.

This exposure culminated in December of 2024 with the publication of my chapter “Hawai‘i’s Sovereignty and Survival in the Age of Empire,” in *Unconquered States: Non-European Powers in the Imperial Age* published by Oxford University Press. My chapter provides a comprehensive explanation of the legal and political history of the Hawaiian Kingdom and its continued existence as an Occupied State since 1893.

For these reasons, the Hawaiian Kingdom, by its Council of Regency, submitted a *Complaint of the United States of America’s Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations*<sup>2</sup> with His Excellency Mr. Philemon Yang, President of the United General

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<sup>1</sup> Permanent Court of Arbitration website, *Larsen v. Hawaiian Kingdom*, online at: <https://pca-cpa.org/en/cases/35/>.

<sup>2</sup> An electronic version of this complaint can be downloaded at: [https://hawaiiankingdom.org/pdf/HK\\_Complaint\\_to\\_President\\_UN\\_General\\_Assembly\\_\(8.12.25\).pdf](https://hawaiiankingdom.org/pdf/HK_Complaint_to_President_UN_General_Assembly_(8.12.25).pdf).

Assembly—79th Session, and His Excellency António Guterres, Secretary General of the United Nations, on 14 August 2025, pursuant to Article 35, paragraph 2, of the UN Charter. For reasons unknown, neither the President nor the Secretary General included the Hawaiian Complaint as an item in the agenda in accordance with Rule 18 of the Rules of Procedure of the General Assembly, which states the request for inclusion had to be made at least four days before the opening of the 80th session on 9 September 2025.

On 13 October 2025, the Hawaiian Kingdom amended its complaint now titled “Situation of the United States of America’s Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations.”<sup>3</sup> The President of the General Assembly—80th session, Her Excellency Annalena Baerbock, received the amended complaint, by courier, on 16 October 2025.

The Hawaiian Kingdom, as a sister Pacific Island State, kindly requests the assistance of the Member States of the Pacific Small Island Developing States (“PSIDS”) to make a request for the inclusion of a supplementary item in the agenda of the 80th session pursuant to rules 14 and 20 of the Rules of Procedure of the General Assembly regarding the “Situation of the United States of America’s Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations.” I have taken the liberty of putting together a draft request for consideration by the Member States of PSIDS with Annex I and II.

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



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

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<sup>3</sup> An electronic version of this amendment can be downloaded at:  
[https://hawaiiankingdom.org/pdf/HK\\_UN\\_Amended\\_Complaint\\_\(10.13.25\).pdf](https://hawaiiankingdom.org/pdf/HK_UN_Amended_Complaint_(10.13.25).pdf)

**Request for the inclusion of a supplementary item in the agenda of the eightieth session**

**Situation of the United States of America's Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations**

**Letter dated \_\_\_\_\_ 2025 from the Permanent Representative of \_\_\_\_\_ to the United Nations addressed to the Secretary-General**

Pursuant to rule 14 of the rules of procedure of the General Assembly, I have the honour to request the inclusion in the agenda of the eightieth session of the Assembly of a supplementary item entitled "Situation of the United States of America's Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations".

In accordance with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum (annex I) and a draft resolution (annex II) are enclosed. Attention is also drawn to the Permanent Court of Arbitration case repository, in *Larsen v. Hawaiian Kingdom*, where the Permanent Court recognized the continued existence of the Hawaiian Kingdom as a State since the nineteenth century and the Council of Regency as its provisional government in 1999.<sup>1</sup>

In that regard, having fulfilled all the necessary requirements, I should like to request that the present letter and its annexes be circulated as a document of the General Assembly.

(Signed) \_\_\_\_\_  
Permanent Representative of \_\_\_\_\_  
to the United Nations

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<sup>1</sup> See <https://pca-cpa.org/en/cases/35/>.

## Annex I

### Explanatory memorandum

#### I. Introduction

On 16 October 2025, the President of the General Assembly received, by courier, the “Situation of the United States of America’s Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations” pursuant to Article 35, paragraph 2, of the Charter of the United Nations.<sup>1</sup> On \_\_\_\_\_ October 2025, by email, the Permanent Mission of \_\_\_\_\_ received a copy of the Hawaiian Kingdom’s Situation. The Hawaiian Kingdom is a Non-Member State of the United Nations.

#### II. Relevant facts

Under Article 35, paragraph 2, of the Charter of the United Nations, “a state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a Party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.”

The representative of the United States, both in plenary meeting and in the First Committee, declared that the General Assembly had definite and continuing responsibility in the field of peace and security under Articles 11 and 14, and that the Assembly, under Article 35, was required to receive disputes or situations which Members had the choice of bringing before either the Security Council or the Assembly. On questions of international peace and security, the General Assembly had equal jurisdiction with the Security Council but with a difference of power. Member States which looked for compulsory action could submit their complaints to the Security Council. However, if they could not obtain such action in the Council, they were equally entitled to submit the matter to the General Assembly and invoke the moral authority of that body.<sup>2</sup>

At its thirty-seventh session, on 15 November 1982, the General Assembly adopted by consensus resolution 37/10 on the peaceful settlement of disputes between States. Annexed to the resolution was the Manila Declaration on the Peaceful Settlement of International Disputes, which stated: “Member States reaffirm the important role conferred on the General Assembly by the Charter of the United Nations in the field of peaceful settlement of disputes and stress the need for it to discharge effectively its responsibilities. Accordingly, they should: ... consider making use, when they deem it appropriate, or the possibility of bringing to the attention of the General Assembly any dispute or any situation which might lead to international friction or give rise to a dispute ...”<sup>3</sup>

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<sup>1</sup> See [https://hawaiiankingdom.org/pdf/HK\\_UN\\_Amended\\_Complaint\\_\(10.13.25\).pdf](https://hawaiiankingdom.org/pdf/HK_UN_Amended_Complaint_(10.13.25).pdf).

<sup>2</sup> Repertory of Practice of United Nations Organs, Supplement No. 6 (1959–1966), para. 47.

<sup>3</sup> Repertory of Practice of United Nations Organs, Supplement No. 6 (1979–1984), para. 36.

At its forty-second session of the General Assembly, Member States made multiple references to Article 35 in discussing whether the additional item “Aggression against and occupation of Chad by Libya” should be included in the agenda of the General Assembly for that session. Some Member States expressed the wish that further attempts be made regionally to resolve the matter before being considered in the General Assembly, indicating that the appropriate forum for the settlement of the particular dispute at issue was the Organization of African Unity. Other delegations, such as Zaire, showed support for the inclusion of the item by restating the right, conferred upon Member States by Article 35, para. 1, as well as Article 11, para. 2 of the Charter, to bring any “questions relating to the maintenance of peace and security” to the attention of the General Assembly. In addition, Singapore argued that to refuse Chad’s request would constitute a violation of both Article 35 and the spirit of the Charter. Singapore also expressed concern that denying the inclusion of this item could end up damaging its “interest and security” as well as those of other small States. Following this discussion, the General Committee recommended the inclusion of the item on its agenda.<sup>4</sup>

During the forty-fourth session, upon request from Panama and Cuba, the General Committee discussed the potential inclusion of the “grave situation in Panama” pursuant to Article 35. While the General Committee did not recommend inclusion of this item in the agenda, the topic was considered by the General Assembly under the agenda item “The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development”, which resulted in resolution 44/240 demanding the “immediate cessation of the intervention and withdrawal from Panama of the armed invasion forces of the United States.”<sup>5</sup>

During the forty-eighth session, there was significant debate in the General Committee concerning the request to include “consideration of the exceptional situation of the Republic of China in Taiwan in the international context, based on the principle of universality and in accordance with the established model of parallel representation of divided countries at the United Nations.” This proposal was also considered by the General Committee during the forty-ninth session of the General Assembly. The General Committee did not recommend that the item be included in the agenda of the General Assembly for either the forty-eighth or the forty-ninth session.<sup>6</sup>

### **III. Reasons and legal criteria**

In conclusion, and mindful that the Security Council has primary responsibility for the maintenance of international peace and security, the General Assembly also shares responsibility in that field in accordance with Articles 10, 11, 12, 14, 15, and 35 of the Charter, and General Assembly resolution 37/10. As such, the General Assembly is

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<sup>4</sup> Repertory of Practice of United Nations Organs, Supplement Nos. 7-9 (1985-1999), para. 15.

<sup>5</sup> *Id.*, para. 16.

<sup>6</sup> *Id.*, para. 17.

authorized to receive a complaint or situation relating to the maintenance of international peace and security.

## Annex II

### Draft resolution

#### **Situation of the United States of America's Unlawful and Prolonged Occupation of the Hawaiian Kingdom since 1893 and the Commission of War Crimes and Human Rights Violations<sup>1</sup>**

*The General Assembly,*

*Recalling* its resolution 37/10, of 15 November 1982, and Article 35, paragraph 2, of the Charter of the United Nations,

*Wishing* to promote peace and security and cooperation between the United Nations and the Hawaiian Kingdom, a Non-Member State of the United Nations, in its situation with the United States of America,

1. *Decides* to invite the Hawaiian Kingdom to participate in the sessions and work of the General Assembly regarding its situation with the United States of America;
2. *Requests* the Secretary-General to take the action necessary to implement the present resolution.

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<sup>1</sup> See [https://hawaiiankingdom.org/pdf/HK\\_UN\\_Amended\\_Complaint\\_\(10.13.25\).pdf](https://hawaiiankingdom.org/pdf/HK_UN_Amended_Complaint_(10.13.25).pdf)