

## ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge the receipt of the following documents from the Hawaiian Kingdom, a State not a member of the United Nations, deposited with the Swiss Federal Council, by the Swiss Federal Department of Foreign Affairs, pursuant to Article 156 of the 1949 Geneva Convention for the Protection of Civilian Persons in Time of War:

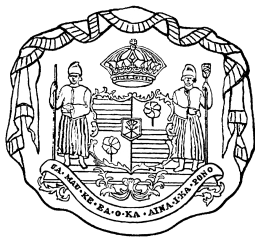
1. Instrument of accession to the 1949 Geneva Convention for the Protection of Civilian Persons in Time of War, dated 28 November 2012.
2. Protest and Demand dated 9 August 2012.
3. CD of Annexes to the Protest and Demand and other relevant documents.
4. DVD Packet of the Larsen v. Hawaiian Kingdom arbitration case.

Benno Bättig

\_\_\_\_\_  
(Print name)

  
\_\_\_\_\_  
(Signature)

*14.1.2013*  
\_\_\_\_\_  
(Date)



**DAVID KEANU SAI, PH.D.**

Ambassador-at-large for the Hawaiian Kingdom

P.O. Box 2194

Honolulu, HI 96805-2194

Tel: (808) 383-6100

E-mail: [interior@hawaiiankingdom.org](mailto:interior@hawaiiankingdom.org)

Website: <http://hawaiiankingdom.org/>

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19 December 2012

Swiss Federal Council  
Berne, Switzerland

Excellencies:

In accordance with Article 155 of the Convention for the Protection of Civilian Persons in Time of War was concluded at Geneva on August 12, 1949, I have the honor on behalf of the *acting* government of the Hawaiian Kingdom to deposit with the Swiss Federal Council my government's instrument of accession to the Convention, and that the Convention shall take effect six months following the deposit of my government's instrument of accession.

I also have the honor on behalf of the *acting* government, to bring to the attention of the Swiss Federal Council a Protest and Demand of the prolonged occupation of the Hawaiian Kingdom, being a non-Member State of the United Nations that was deposited with the President of the United Nations General Assembly pursuant to Article 35(2) of the United Nations Charter. The Protest and Demand was acknowledged and received by the Office of the President of the Sixty-Sixth Session of the General Assembly. Attached are the Protest and Demand (9 August 2012) and an accompanying CD with Annexes and other relevant documents.

The Hawaiian Islands, through its government the Hawaiian Kingdom, achieved the recognition of its independence as a sovereign State on November 28, 1843 by joint proclamation from Great Britain and France (Annex 2 of the Protest and Demand) and by 1893, and the Hawaiian Kingdom maintained over ninety legations and consulates throughout the world (pages 10-11, Protest and Demand). My country has a Treaty of Friendship, Establishment and Commerce with the government of Switzerland dated July 20, 1864 that is still in full force and effect (Annex 51 of the Protest and Demand).

Unable to procure a treaty of cession from the Hawaiian Kingdom acquiring the Hawaiian Islands as required by international law, the United States Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on 7 July 1898 during the Spanish-American War as a war measure. The Hawaiian Kingdom came under military

occupation on 12 August 1898 at the height of the Spanish-American War, and the occupation was justified by the United States as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since 1 May 1898. Following the close of the Spanish-American War by the 1898 Treaty of Paris, U.S. troops remained in the Hawaiian Islands and continued its illegal occupation to date in violation of the 1893 *Lili'uokalani assignment and Agreement restoration*, being international compacts established through *exchange of notes*, the 1907 Hague Convention, IV, and the 1949 Geneva Convention, IV.

Furthering the illegal occupation, United States President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on 30 April 1900; and on 18 March 1959, United States President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union*. These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of international law and the 1893 *Lili'uokalani assignment and Agreement of restoration*. Actions taken against the Hawaiian Kingdom by the United States constitutes serious international wrongful acts pursuant to the *Responsibility of States for International Wrongful Acts* (2001), and according to the Commission's Report on the Responsibility of the Authors of the War and on Enforcement of Penalties (29 March 1919), "usurpation of sovereignty during occupation," is a war crime.

I had the honor of serving as Agent for the *acting* government of the Hawaiian Kingdom in arbitral proceedings before the Permanent Court of Arbitration, *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001).<sup>1</sup> Enclosed is a DVD packet of the *Larsen* case. The Arbitral Tribunal in the *Larsen* arbitration comprised of Professor James Crawford, SC, Presiding Arbitrator, who at the same time was a member of the United Nations International Law Commission and *Special Rapporteur* on State Responsibility (1997-2001); Professor Christopher Greenwood, QC, Associate Arbitrator, who now serves as a Judge on the International Court of Justice since 6 February 2009; and Gavan Griffith, QC, Associate Arbitrator, who served as former Solicitor General for Australia. The jurisdictional basis of the Permanent Court of Arbitration in *Larsen v. Hawaiian Kingdom* was a dispute between a State and a private person. Attached is a DVD packet of the *Larsen v. Hawaiian Kingdom* arbitration case. I also served as Agent for the *acting* government when I filed a Complaint against the United States of America with the United Nations Security Council on 5 July 2001, under the Presidency of China.<sup>2</sup>

The Hawaiian Kingdom will withdraw States from the Protest and Demand, with the exception of the United States of America, when said States shall declare, whether

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<sup>1</sup> Bederman & Hilbert, "Arbitration—UNCITRAL Rules—justiciability and indispensable third parties—legal status of Hawai'i," 95 *American Journal of International Law* 927-933 (2001).

<sup>2</sup> Patrick Dumbery, "The Hawaiian Kingdom Arbitration Case and the Unsettled Question of the Hawaiian Kingdom's Claim to Continue as an Independent State under International Law," 2(1) *Chinese Journal of International Law* 655-684 (2002); and David Keanu Sai, "A Slippery Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its Use and Practice in Hawai'i today," 10 *Journal of Law and Social Challenges* 68-133 (Fall 2008).

individually or collectively, that they will not recognize as lawful the United States of America's presence and authority within the territory, territorial seas, exclusive economic zone and airspace of the Hawaiian Kingdom according to Article 41(2), *Responsibility of States for International Wrongful Acts* (2001), excepting the United States' temporary and limited authority vested by virtue of the 1893 *Lili'uokalani assignment*, Article 43 of the 1907 Hague Convention, IV, and international law.

The Hawaiian Kingdom provided a packet for the Permanent Representative of Switzerland in New York that contained a cover letter with accompanying CD of PDF files of the Protest and Demand and Annexes.

Please accept, Excellencies, the assurances of my highest consideration,

A handwritten signature in black ink, appearing to read "David Keanu Sai". The signature is fluid and cursive, with a period at the end.

David Keanu Sai

Enclosures

# Instrument of Accession

Whereas a Convention for the Protection of Civilian Persons in Time of War was concluded at Geneva on 12 August 1949;

And Whereas Article 155 of the Convention specifies that the Convention shall be open to accession by any State Power;

Now Therefore, the Hawaiian Kingdom, having considered the Convention, hereby Accedes to it, and undertakes faithfully to abide by all the provisions contained therein.

In Witness Whereof, I have hereunto set my hand, and caused the Great Seal of the Kingdom to be affixed this 20<sup>th</sup> day of November A.D. 2012.



Peter Umialiloa Sai,  
Vice-Chairman of the Acting Council of Regency  
Acting Minister of Foreign Affairs

By the Council

Kau'i P. Sai-Dudoit,  
Acting Minister of Finance