

EXECUTIVE ORDER NO. 124

*Setting November 9, 1993 as the Date for the Eighth Plebiscite
on the Compact of Free Association between the
Government of the Republic of Palau and the Government of the United States of America*

WHEREAS, the resolution of our nation's political status has been the most important issue facing Palau for decades; and

WHEREAS, since the commencement of formal negotiations between the United States and members of the Congress of Micronesia in early 1970's, Palau government officials were engaged in a number of joint future political status discussions with officials of the United States of America on a multilateral level alongside representatives of the Federated States of Micronesia and the Republic of the Marshall Islands centered on a relationship of free association; and

WHEREAS, following the division of the former Trust Territory of the Pacific Islands into separate political entities resulting from the 1978 constitutional referendum of the FSM Constitution, Palau commenced its own bilateral status negotiations with the United States of America with such negotiations still centered on a relationship of free association: and

WHEREAS, from January to April of 1979, thirty-eight(38) convention delegates assembled, drafted and approved a Constitution for the Republic of Palau which, after three constitutional referenda, was duly ratified overwhelmingly by the Palauan voting public on July 9, 1980, and took effect on January 1, 1981; and

WHEREAS, over the past 10 years, a total of seven (7) plebiscites on a Compact of Free Association (herein the "Compact") have been conducted and observed by the United Nations Observer Missions within and outside the Republic of Palau with the following voting results:

- (a) February 10, 1983 with 62% in favor of Free Association; 31% for closer association with (territory of) the United States; 29% for independence;
- (b) September 4, 1984, with 67% in favor of Free Association; 33% for closer association with (territory of) the United States; 14% for independence;
- (c) February 21, 1986, with 72% favorable vote for Free Association and 28% against;
- (d) December 2, 1986, with 66% in favor of Free Association and 34% against;
- (e) June 30, 1987, with 68% in favor of Free Association and 32% against;
- (f) August 21, 1987, with 73% in favor of Free Association and 27% against; and
- (g) February 6, 1990, with 60% in favor of Free Association and 40% against; and

WHEREAS, to lower the Compact approval from the constitutionally mandated requirement of 75% approval to that of a simple majority vote, two constitutional amendment referenda have been held in the Republic of Palau with the following results:

(a) On August 4, 1987, the first such constitutional amendment referendum was held resulting in a 73% affirmative vote. However, the outcome of said referendum was nullified in Civil Action No. 161 -87 and which nullification was affirmed on appeal in Civil Appeal No. 60, for lack of three-fourth (3/4) voters required of each House of the Olbiil Era Kelulau to pass legislation authorizing a constitutional amendment pursuant to Article XIV, Section 1(c) of the Constitution .

(b) The second such constitutional amendment referendum was held on November 4, 1992, in which the proposed amendment was approved by a 62% majority vote overall and by 14 out of the 16 states as is required for passage under Section 11 of Article XV of the Constitution. That referendum vote was authorized by a petition signed by not less than twenty-five percent (25%) of the registered voters of the Republic as is required pursuant to Article XIV, Section 1(b) of the-Constitution; and

WHEREAS, for the Compact to take effect or be Implemented, it must first be approved by both the Republic of Palau and the United States of America according to their respective constitutional processes. In this regard, the Compact, together with its associated Subsidiary Agreements, was signed by duly designated representatives of the United States of America and the Republic of Palau on January 10, 1986. The United States Government has to date approved the Compact of Free Association by the enactment of the following United States laws:

- (a) US Public Law 99-239, approved on January 14, 1986, entitled a “Joint Resolution to approve the ‘Compact of Free Association’” (mainly for the Federated States of Micronesia and the Republic of the Marshall Islands, but including Palau as well), and known as the COMPACT OF FREE ASSOCIATION ACT OF 1985 (99 Stat. 1770-1841);
- (b) US Public Law 99-658, approved on November 14, 1986, entitled a “Joint Resolution to approve the ‘Compact of Free Association’ between the United States and the Government of Palau...” and known as COMPACT OF FREE ASSOCIATION, APPROVAL (100 Stat. 3672-3704); and
- (c) US Public Law 101-219, approved on December 12, 1989, entitled a “Joint Resolution to authorize entry into force of the Compact of Free Association between the United States and the Government of the Republic of Palau . . .” and known as IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU (103 Stat. 1870-1875); and,.

WHEREAS, Section 11(1) of RPPL No. 3-76 enacted on August 20, 1992 states that “In no event shall a Plebiscite be held until after the Republic of Palau has received a favorable response from the United States on the requested modifications to the Compact of Free

Association”; and

WHEREAS, as President of the Republic of Palau I held discussions and negotiated with the United States regarding modifications to the Compact of Free Association and thereafter received a letter of assurances regarding the Compact from the Government of the United States signed by the Secretary of State of the United States, dated May 6, 1993 (hereinafter the “Letter of Assurances”), which assurances the Government of the Republic of Palau has determined constitute a favorable response by the United States to Palau’s request for Compact modifications; and

WHEREAS, by Joint Resolution adopted on June 23,1993 the Olbiil Era Kelulau resolved that “the 8th Plebiscite on the Compact of Free Association between the Government of the Republic of Palau and the Government of the United States of America, including all the associated Subsidiary Agreements, shall be held on a date set by the President of the Republic not less than ninety (90) days from the date the Assistant Secretary of the United States Department of the Interior confirms the Compact Implementation Act of 1993”; and

WHEREAS, Section 8(1) and 8(3) and 8(4) of RPPL 4-9 states that

“(1) There shall be a plebiscite on the Compact of Free Association based on the determination by the Government of the Republic of Palau that Palau has received a favorable response from the United States on the requested modifications to the Compact in accordance with Section 11(1) of RPPL No. 3-76. Such referendum shall be as provided for under Sections 10 through 14 of RPPL No. 376 and the provisions of this Act and shall be conducted on a date set by the President of the Republic not less than ninety (90) days from the date on which the Assistant Secretary of the United States Department of the Interior does not suspend this Act in accordance with Section 11(1) of RPPL No. 3-76;

(3) RPPL No. 3-76 and this Section 8 shall each serve independently as the basis for the call of such plebiscite and any finding of Invalidity of one as the basis for the calling of the plebiscite shall not effect the validity of the calling of the plebiscite under the authority of the other; and

(4) For polling places located outside of the Republic of Palau, the Election Commission may, in its discretion, set a date for the plebiscite on the Compact of Free Association on any weekend day of the weekend immediately preceding the date of the scheduled plebiscite in the Republic of Palau, provided, however, that such date for off-island polling falls within the time frame set forth in subsection (1)above”; and

WHEREAS, on August 5,1993, as President of the Republic, I received a letter jointly addressed from Assistant Secretary Leslie Turner of the United States Department of the Interior and Acting Assistant Secretary Peter Thomsen of the United States Department of State which stated that RPPL No. 4-9 would not be suspended and that the United States Government is committed to working with the people of Palau “to achieve Palau’s quest for self determination”;

NOW, THEREFORE, I, Kuniwo Nakamura, President of the Republic of Palau, by virtue of the authority vested in me by the Constitution and laws of the Republic, including but not limited to RPPL No. 3-76 and RPPL No. 4-9 and House Joint Resolution No.4-9-3S, HD1, SD1, hereby set the time and date for the Eighth Plebiscite on the Compact of Free Association between the Government of the Republic of Palau and the Government of the United States of America to be on Tuesday, November 9, 1993 from 7:00 a.m. to 7:00 p.m. However, in conformance with RPPL No. 4-9 polling places located outside of the Republic of Palau, the Election Commission may, in its discretion, set Saturday, November 6, 1993 and/or Sunday, November 7, 1993 as the date(s) for the Plebiscite on the Compact of Free Association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on this 6th day of August, 1993 in the State of Koror, Republic of Palau.

Kuniwo Nakamura
President
Republic of Palau