

EXECUTIVE ORDER NO. 84

Proclaiming and Setting Forth Tuesday, February 6, 1990 as the Date for the 7th Plebiscite on the Compact of Free Association between the Republic of Palau and the United States of America.

WHEREAS, future political status negotiations with the Government of the United States were commenced in 1969 by Political status Commission established by the Congress of Micronesia to speak for and on behalf of all the people of the Trust Territory of the Pacific Islands; and

WHEREAS, during ensuing political status negotiations, the former Administrative District of the Northern Marianas opted for and concluded a Commonwealth Covenant with the United States which became the basis for its political status; and

WHEREAS, the other six remaining administrative districts of Palau, Yap, Truk, Pohnpei, Kosrae, and the Marshalls chose to pursue future political status relationship with the United States on the basis of the political status of free association; and

WHEREAS, subsequent to the 1978 Micronesian-wide constitutional referendum whereby the then proposed Constitution for the Federated States of Micronesia was ratified by the voters of Kosrae, Pohnpei, Truk and Yap, but was disapproved by the Palau and the Marshall Islands voters, thereafter Governments of the Republic of Palau, the Republic of the Marshall Islands and the Federated States of Micronesia, bilaterally continued separate future political status discussions with the United States but still under the framework of free association relationship; and

WHEREAS, following overwhelming approval of the Compact of Free Association by the voters of both the Marshall Islands and the Federated States of Micronesia in 1983, the President of the United States on February 20, 1985, transmitted the FSM and Marshalls Compact to the U.S. Congress for consideration and which was subsequently approved as Public Law 99-239 and with said Compact taking effect in FSM in October and in the Marshalls in November 1986 respectively; and

WHEREAS, authorized by RPPL No. 1-43 and under Proclamation No. 11-82, the First Plebiscite in Palau on the compact of Free Association was held on February 10, 1983 with the following results:

- a) 62% in favor of the compact,
- b) 53% in favor of nuclear subsidiary agreement (which constitutionally required 75% approval vote),
- c) 31% in favor of closer association with the United States, and

- d) 29% in favor of independence; and

WHEREAS, authorized by RPPL No. 1-60, and Pursuant to Executive Order Nos. 25 and 26, the Second Compact Plebiscite was held on September 4, 1984 with the following results:

- a) 67% in favor of the Compact of Free Association,
- b) 33% in favor of closer association with the United States, and
- c) 14% in favor of independence; and

WHEREAS, authorized under RPPL 2-14, the Third Compact Plebiscite was held on February 21, 1986 resulting in a 72% approval vote; and

WHEREAS, following the said Third Compact Plebiscite, and at the request of the President of Palau for the United States to complete its approval process, House Joint Resolution 626 was duly enacted by the United States Congress and signed into U.S. Public Law 99-658 on November 14, 1986; and

WHEREAS, the Compact of Free Association between Palau and the United States has been duly approved by the United States Government in PL 99-658, but with the entry into force of the Compact subject to:

- (a) U.S. President certifying to U.S. Congress that the Compact has been duly ratified by Palau according to its constitutional process; and that U.S. has ability to exercise its security authority and dispense its defense responsibility therein;
- (b) U.S. Congress enacting an implementing legislation (i.e. H.J. Res. 175) authorizing entry into force of the Compact; and
- (c) certain agreements between the United States and Palau have been duly concluded as required under the compact; and

WHEREAS, authorized under RPPL No. 2-22 and pursuant to Executive Order Nos. 46 and 47, the Fourth compact Plebiscite was held in Palau on December 2, 1986 resulting in 66% approval vote; and

WHEREAS, authorized under RPPL No. 2-27, and pursuant to Executive Order Nos. 56, 57 and 58, the Fifth compact Plebiscite was held on June 30, 1987, and resulting in 68% approval vote; and

WHEREAS, authorized under RPPL No. 2-30, a Constitutional Amendment Referendum was held on August 4, 1987, resulting in 73% affirmative popular vote, and in positive votes by fourteen out of the sixteen states; and

WHEREAS, authorized by RPPL No. 2-30, and pursuant to Executive Order No. 60, the Sixth Compact Plebiscite was held on August 21, 1987 resulting in 73% approval vote; and

WHEREAS, in Civil Action No. 161-87, and affirmed in Civil Appeal No. 8-88, the Supreme Court of the Republic of Palau ruled, among other things, that:

- (a) Article XIV, Section 1(c) of the Constitution requires that any legislative proposal for constitutional amendment be approved by three-fourths (75%) vote by members of the senate and House of Delegates, but RPPL No. 2-30 was passed only by simple majority of both Houses, and was therefore null and void, and
- (b) Because the August 4, 1987 Constitutional Amendment was a nullity, approval of the Compact still required 75% instead of simple majority vote to approve and consequently, the 73% affirmative vote on August 21, 1987 was insufficient to ratify the compact; and

WHEREAS, on January 16, 1989, the leadership of the Executive and Legislative Branches, elected during the 1988 third constitutional government general elections, issued a unified "POSITION STATEMENT ON THE FUTURE POLITICAL STATUS OF PALAU" proclaiming, among other things, that "Despite repeated failures by the Palau electorate to muster the 75% constitutionally mandated majority approval of the compact of Free Association, Palau leaders continue to believe that an overwhelming majority of the Palau electorate still favors and supports the concept of a fully constituted and self-governing Palau freely associated with the United States"; and

WHEREAS, pursuant to RPPL No. 3-1, the commission on Future Palau/United States Relations was created with 22 cross section membership, chaired by the Vice President of the Republic of Palau, and charged with the responsibility to address and negotiate for improvement of the future relationship between the United States and Palau; and

WHEREAS, consistent with its statutory mandate, the Commission on Future Palau/United States Relations concluded and signed on May 26, 1989 with the representative of the Government of the United States the "Agreement Concerning Special Programs Related to the Entry Into Force of the Compact of Free Association Between the Government of the United States and the Government of Palau", and on June 9, 1989, submitted the report of its findings and recommendations to the President of the Republic of Palau, the President of the Senate, and the Speaker of the House of Delegates, Third Olbiil Era Kelulau: and

WHEREAS, on August 21, 1989, RPPL No. 3-10 was approved into law, calling for the Seventh Plebiscite and Referendum on the Compact of Free Association and authorized the President of the Republic of Palau to proclaim the date of said Seventh Compact Plebiscite to take place between January 1st and June 30, 1990; and

WHEREAS, said RPPL No. 3-10 designates the Election Commission as the body to conduct and oversee the Compact plebiscite and to expend \$100,000 for such purpose and also

established a Political Education Committee consisting of the members of the former Commission on Future Palau/United States Relations to conduct political education programs and to expend \$150,000 related thereto;

NOW, THEREFORE, by virtue of the authority vested in me by the constitution and laws of the Republic of Palau, I do hereby proclaim and order that:

1. The Seventh Plebiscite on the Compact of Free Association with the United States, as signed on January 10, 1986, inclusive of its subsidiary agreements, shall be held on Tuesday, February 5, 1990, both within Palau and at such locations in jurisdictions outside of Palau as may be so designated and established by the Election Commission.

2. Political education programs relating to the subject Seventh compact Plebiscite shall be carried out by the Political Education Committee in accordance with appropriate provisions of RPPL No. 3-10.

3. Printed in both English and Palauan, and as prescribed under section 5 of RPPL No. 3-10, the language of the ballot shall be:

“Place an ‘X’ or other mark in one box.

CONDITIONAL UPON THE INTERPRETATIONS SET FORTH IN SECTION 3 OF RPPL NO. 3-10, DO YOU APPROVE FREE ASSOCIATION WITH THE UNITED STATES AS SET FORTH IN THE COMPACT OF FREE ASSOCIATION SIGNED ON JANUARY 10, 1986, INCLUSIVE OF ITS SUBSIDIARY AGREEMENTS, INCLUDING ITS SECTION 324, WHEREBY THE GOVERNMENT OF THE UNITED STATES, IN CARRYING OUT ITS SECURITY AND DEFENSE RESPONSIBILITIES UNDER THE COMPACT OF FREE ASSOCIATION, HAS THE RIGHT TO OPERATE NUCLEAR CAPABLE OR NUCLEAR PROPELLED VESSELS AND AIRCRAFTS WITHIN THE JURISDICTION OF PALAU?

[] YES

[] NO”

IN WITNESS WHEREOF, I have hereunder set my hand and affixed my official seal this 24th day of November 1989, in the State of Koror, Republic of Palau.

Ngiratkel Etpison
President
Republic of Palau