Resolution No. 55-BOD-11, CD1

A RESOLUTION

“Requesting that all member entities of the Association of Pacific Island Legislatures acknowledge and support the need for meaningful consultation with the people of Guam concerning the ‘Treaty Between the Government of the Federated States of Micronesia and the Government of the United States of America on the Delimitation of a Maritime Boundary’ before this treaty is ratified by both the FSM Congress and the US Congress.”

WHEREAS, on August 1, 2014 at the Pacific Islands Forum in Palau, the governments of the FSM and the United States entered into a treaty on the delimitation of a Maritime boundary, to formally redefine overlapping maritime boundary lines between Guam and the outlying islands of the FSM; and

WHEREAS, Guam, as an unincorporated territory of the United States, was not offered membership in the Pacific Islands Forum, and Guam’s governor and U.S. congressional delegate were merely invited to the meeting in Palau as observers; and

WHEREAS, The people of Guam were not included in negotiations concerning this treaty, which according to reports from the Secretariat of the Pacific Community’s Applied Geoscience and Technology Division (SOPAC), have been ongoing since 2002 through SOPAC’s “Regional Maritime Boundaries Delimitation Project”; and

WHEREAS, the United States and the FSM could have provided a mechanism to secure consultation with the people of Guam at some point within the past twelve years of negotiations, but did not; and

WHEREAS, FSM Secretary of Foreign Affairs Lorin Robert signed the treaty on behalf of the FSM and expressed that in creating a well-defined boundary between Guam and the FSM, the treaty, “confirms and strengthens … the Micronesian tradition that we are peoples of the seas; we take pride in the stewardship and benefit from the bounties of the ocean”; and
WHEREAS, historically and culturally, as peoples of the seas, the people of the FSM islands and the people of Guam would have consulted each other on issues concerning the ocean and its natural resources; and

WHEREAS, the treaty appears to have included Challenger Deep – the deepest know point in the Mariana Trench – in the FSM’s Exclusive Economic Zone (EEZ); and

WHEREAS, Guam is part of the Mariana Islands, which is the namesake of the Marianas Trench; and

WHEREAS, the passage of this resolution does not advocate for the elimination of the National Marine Monument in the Commonwealth of the Mariana Islands; and

WHEREAS, while there is some ambiguity as to the exact location of Challenger Deep, the United States Geological Survey (USGS) released the publication “Marine Mineral Resources of Pacific Islands – A Review of the Exclusive Economic Zones of Islands of U.S. Affiliation, Excluding the State of Hawaii (2005),” which indicates, textually and topographically, that Challenger Deep falls on the Guam side, and not the FSM side, of the maritime boundary identified in the treaty; and

WHEREAS, many in Guam have long assumed that Challenger Deep is located within Guam’s EEZ, and thus, the United States had a duty to consult the people of Guam before formally executing a maritime boundary delimitation that potentially removes Challenger Deep from Guam’s EEZ, especially considering that the seabed and subsoil of Challenger Deep may contain valuable mineral deposits that a future self-governing Guam could choose to use for economic gain; and

WHEREAS, the Charter of the United Nations dictates that in non-self-governing territories like Guam, where the people have yet to attain a full measure of self-government, the states administering them must, “recognize the principle that the interests of the inhabitants of these territories are paramount”; and

WHEREAS, the UN General Assembly has repeatedly affirmed that self-determination includes entitlement to natural resources within one’s territory as evidenced in its Resolution on Permanent Sovereignty Over Natural Resources (Resolution 1803), which determines that the “violation of the rights
of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and
principles of the Charter of the United Nations”; and Resolution 3281, containing the Charter of
Economic Rights and Duties of States, which provides that “every State has and shall freely exercise full
and permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources
and economic activities”; and Resolution 1314, which clearly states that “the right of peoples and nations
to self-determination . . . includes ‘permanent sovereignty over their natural wealth and resources’”; and

WHEREAS, the UN General Assembly has expressly instructed the United States to work with
the Government of Guam, “. . . to take effective measures to safeguard and guarantee the inalienable right
of the people of Guam to own and dispose of the natural resources of the Territory, including marine
resources, and to establish and maintain control over the future development of those resources . . . ”; and

WHEREAS, if Challenger Deep does indeed fall within Guam’s EEZ, as the USGS itself has
represented, then the United States clearly had a duty to meaningfully consult with the people of Guam
before entering into the treaty, which potentially adversely impacts the people of Guam’s rights over their
marine resources; and

WHEREAS, APIL passed resolutions in both the 27th and 30th General Assemblies, encouraging
APIL member states to recognize, promote and support the decolonization of Guam and the Chamorro
right to self-determination; and

WHEREAS, since the treaty does not support the decolonization of Guam, its ratification should
be halted until the people of Guam are meaningfully consulted, as the ancestors of these Pacific Islands
would have done for generations; now, therefore,

BE IT RESOLVED by the Board of Directors of the Association of Pacific Island Legislatures
at the Fifty-Fifth Board of Directors Meeting in the FSM State of Yap, December 3-6, 2014, that the
APIL hereby requests and encourages all APIL member entities to acknowledge and support the need for
meaningful consultation with the people of Guam concerning the “Treaty Between the Government of the
Federated States of Micronesia and the Government of the United States of America on the Delimitation
of a Maritime Boundary’ before this treaty is ratified by both the FSM Congress and the US Congress;

and

BE IT FURTHER RESOLVED that the APIL President shall certify, and the APIL Secretary
shall attest to the adoption hereof and copies of the same shall be transmitted to the Chief Executives and
Legislative Presiding Officers of each member jurisdiction of the Association of the Pacific Island
Legislatures

DULY AND REGULARLY ADOPTED ON THE 5TH DAY OF DECEMBER, 2014

JUDITH T. WON PAT, ED. D.
ACTING PRESIDENT

CHANG B. WILLIAM
SECRETARY