

Working Paper 11

Original: English

Status of maritime boundaries in Pacific Island countries

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STATUS OF MARITIME BOUNDARIES IN PACIFIC ISLAND COUNTRIES

Purpose

1. This paper provides an update on the regional progress in maritime boundary delimitation under the United Nations Convention on the Law of the Sea (UNCLOS), in particular with regards to progress made in boundary negotiations, treaty ratification and the lodgement of treaties and declared limits of maritime zones with the United Nations (UN).

Background

2. Under international law coastal states are entitled to a number of maritime zones. All exclusive sovereignty claims over areas of ocean space must be based upon sound technical data and meet the requirements prescribed within UNCLOS.
3. The UNCLOS Convention entered into force in November 1994 and all Pacific island countries (PICs) are signatories of the Convention and thus share common requirements under UNCLOS, specifically to determine their maritime zones and deposit this information with the UN.
4. The maritime zones are measured from the territorial sea baselines, or in some cases, from archipelagic baselines. Baselines in the Pacific Islands are usually characterised as the line drawn around the outer reef edges of an island or island group (for those countries with archipelagic baselines) at lowest astronomical tide (LAT). From these baselines the following five maritime zones are determined.
 - a. Internal waters — covering all water and waterways on the landward side of the baseline (e.g. lagoons).
 - b. Territorial sea — the zone seaward of the baseline measured outwards to 12 nautical miles.
 - c. Contiguous zone — lies 12 nautical mile beyond the territorial sea or 24 nautical miles seaward from the baseline.
 - d. Exclusive Economic Zone (EEZ) — is beyond the territorial sea to an extent of 200 nautical miles measured seaward from the baseline, subject to delimitation with any neighbouring state.
 - e. Continental Shelf — refers to areas of seabed and subsoil territory (not water column) beyond the territorial sea. The outer limit of the continental shelf is more complex and is at least 200 nautical miles seaward from the baseline. In some circumstances it extends beyond 200 nautical miles where the continental margin extends beyond that point.
5. In order to make a claim for a continental shelf beyond 200 nautical miles (Extended Continental Shelf, ECS), there are a number of criteria which determine if a coastal state has such potential and all such claims are subject to technical review by the UN Commission on the Limits of the Continental Shelf (UNCLCS).
6. There are two other maritime zones which refer to the High Seas (the water column beyond national jurisdiction), and the Area (the seabed and subsoil resources administered by the International Seabed Authority). UNCLOS gives certain rights and obligations to the coastal states within these zones.

7. It is vital for monitoring, control and surveillance (MCS) and the control of illegal, unreported, and unregulated (IUU) fishing under international law that each PIC determines and publicises its baselines and maritime zones and deposits these with the UN. This process, as provided for under UNCLOS, empowers Pacific island countries states to control activities which make use of the marine resources and contributes to improving global and regional ocean governance.
8. SPC's Maritime Boundaries Unit and its partner agencies, Geoscience Australia, the Government of Australia's Attorney General's Department, the Commonwealth Secretariat, Pacific Islands Forum Fisheries Agency and GRID Arendal continue to support the completion of maritime zones and ECS submissions, and the defence of these claims to the UNCLCS.

Progress to date

9. National interests as well as the regional efforts to address this issue have been slowly building momentum over recent years. From 2002 to 2010, there were a total of two maritime boundary agreements signed in the Pacific region. However in the period 2011 to 2014, a total of 14 maritime boundary agreements were formally endorsed. For example, Fiji signed its second maritime boundary agreement with Tuvalu in October 2014, after a lapse of more than 30 years since its first maritime boundary agreement with France in 1983.
10. SPC's Maritime Boundaries Unit, in cooperation with the partners, continues to assist member countries in the development and definition of maritime zones and shared boundary solutions. This technical and legal assistance can be utilised by members to declare their baselines, maritime zones, including the sovereign outer boundaries (EEZ) in domestic legislation, and also to deposit this information with the UN.
11. The SPC provides technical assistance vital to maritime zone development for member countries. For example, Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, Tuvalu and Vanuatu have previously worked with SPC to develop their maritime zones. More recently, the Federated States of Micronesia, Republic of Marshall Islands, Palau, Samoa and Tonga have requested SPC to assist with maritime zone solutions.
12. SPC also assists 10 PICs namely Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Palau, Papua New Guinea, Solomon Islands, Tuvalu, Tonga and Vanuatu to lodge and continue development of their respective (and in some cases joint) ECS submissions with a total claim of approximately 2 million km² of additional sea bed territory in the Pacific region.

Summary of the present status of maritime boundary development in Pacific Island Countries

13. In 2011, only three PICs namely Palau, Fiji and Nauru had declared information about its baselines, archipelagic baselines, or the outer limits of its EEZs in accordance with UNCLOS. Since then, Tuvalu, Niue and Cook Islands have also completed and similarly declared information about its baselines and maritime zones with the UN. Papua New Guinea, Solomon Islands and Vanuatu have declared only their archipelagic baselines.
14. There are approximately 48 overlapping or shared EEZs where negotiations are vital to settle the outer boundary between their maritime zones. From these 48 shared EEZs, 34 maritime treaties have been successfully negotiated and signed by the Leaders of the PICs. The Maritime Boundaries Unit at SPC and its partner agencies continue to work with PICs to complete the remaining 14 shared maritime boundaries.

Tasks	CK	FJ	FSM	KI	RMI	NR	NU	PW	PG	SI	TV	TN	VU	WS
Baseline developed	Yes	Yes	Work in progress	Yes-closing line remaining	Work in progress	Yes	Yes	Work in progress	Work in progress (Torres Strait)	Yes	Yes	Work in progress	Yes	Yes
Archipelagic Status defined and developed	NA	Yes	Work in progress	Yes	Work in progress	NA	NA	Work in progress	Yes	Yes	Yes	Work in progress	Yes	NA
Boundaries computed & developed	Yes	Review in progress	Work in progress	Yes	Work in progress	Yes	Yes	Work in progress	Work in progress (Torres Strait)	Work in progress	Yes	Work in progress	Work in progress	Yes -12, 24 only
ECS claims complete	Yes	Yes	Yes	Yes	NA	NA	NA	Yes	Yes	Yes	Yes	Yes	Yes	NA
Baseline Gazetted	No	Yes updated	No	No work in progress	No work in progress	Yes	Yes	No work in progress	Yes being reviewed	Yes being reviewed	Yes	No	Yes	No work in progress
Archipelagic Baseline Gazetted	NA	Yes updated	No	No work in progress	No work in progress	NA	NA	No work in progress	Yes – being reviewed	Yes – being reviewed	Yes	No	Yes	NA
Boundaries / Zones Gazetted	Yes -EEZ	Yes – being reviewed	No	No work in progress	No work in progress	Yes	Yes	No work in progress	No	No	Yes	No	No	No work in progress
Baselines deposited with UNCLOS	No	Yes – being reviewed	No	No	No	Yes	Yes	Yes – being reviewed	Yes – being reviewed	Yes – being reviewed	Yes	No	Yes	No
Boundaries deposited with UNCLOS	No	Yes – being reviewed	No	No	No	Yes	Yes	Yes – being reviewed	No	No	Yes	No	No	No
ECS claim deposited with UNCLCS	Yes	Yes	Yes	Yes	NA	NA	NA	Yes	Yes	Yes	Yes	Yes	Yes	NA

SPC Geoscience Division Responsibility

Country Responsibility

Important issues related to present status of maritime boundaries in the region

15. Given the importance of ocean resources to the economic development of PICs, the first step in securing, managing and providing adequate policy and governance frameworks within regional and national jurisdictions is to accurately define and declare the national baselines, archipelagic status (where applicable), the national maritime zones and the shared boundary solutions in the form of domestic legislations, and where appropriate, legally binding treaties.
16. With the renewed interest by foreign mining companies in the region for exploration or exploitation of deep sea minerals, as well as increasing reports of IUU fishing activities in the region, the Leaders of the PICs are noting the importance of formally establishing their maritime zones in a legal manner.
17. In 2010, the Pacific Islands Forum Leaders endorsed the Framework for a Pacific Oceanscape, which identifies strategic priorities and actions in the region to achieve sustainable development, management and conservation of the Pacific Ocean. This Framework identifies (as Strategic Priority 1) to “establish jurisdictional rights and responsibilities over maritime zones” and this goal was reiterated during the 2014 Forum Leaders Meeting in Palau through the Palau Declaration on “The Ocean: Life and Future” with one of the priorities being the delimitation of maritime zones for PICs.

Recommendations

18. The meeting is invited to:
 - i. note the priority placed on the delimitation and declaration of maritime zones in the region and their importance for ocean management and securing interests such as fisheries rights to access, conservation and management of marine areas, the exploration and mining of minerals, conservation of biological diversity, and navigation and security;
 - ii. note that the majority of maritime boundaries (EEZ) in the Pacific have been negotiated and declared; and the comprehensive technical and legal support that SPC and partners continue to provide to enable PICs to delimit, publicise and deposit the remaining maritime zones;
 - iii. recognise that some PICs still have significant technical and legal work to complete before they can declare their baselines and maritime zones, whilst others are in a position to move ahead with negotiations, and that the overall process under UNCLOS is country-driven and that progress depends largely on high-level national engagement; and
 - iv. support SPC and particularly the work of the Maritime Boundaries Unit and consortium of partners as an appropriate and extremely effective mechanism to facilitate national efforts to finalise their maritime zones.