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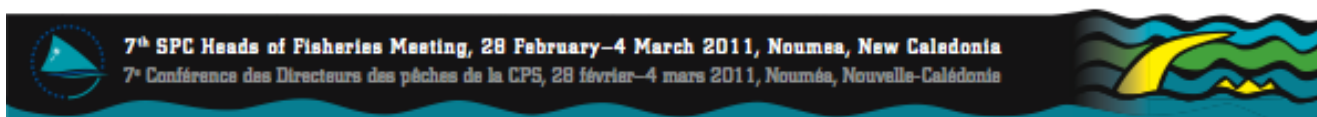
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**Briefing document of the status of maritime boundaries
in Pacific island countries**

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Briefing document of the status of maritime boundaries in Pacific island countries

UNCLOS Background

1. The United Nations Convention on the Law of the Sea (UNCLOS) is the international agreement that defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources. The Convention entered into force in November 1994 and all Pacific Island Countries are signatories of the Convention and thus share common obligations under UNCLOS.
2. Among these obligations is the requirement for signatories to determine their maritime zones by both defining and declaring their baselines and maritime boundaries. The convention sets the limit of various zones and prescribes how these features may be determined. Baselines in the Pacific Islands are usually characterised as the line drawn around the outer reef edges of an island or island group at lowest astronomical tide (LAT). From these baselines the following areas are determined;
 - Internal waters - covering all water and waterways on the landward side of the baseline (e.g. lagoons).
 - Territorial waters - the zone seaward of the baseline out to 12 nautical miles. Archipelagic waters are also included as territorial waters and the potential for a state to declare archipelagic status is determined by criteria outlined under Part IV of the Convention.
 - Contiguous zone – lies 12 nautical mile beyond the territorial sea or 24 nautical miles seaward from the baseline.
 - Exclusive economic zones (EEZ) - extends 200 nautical miles seaward from the baseline.
 - Extended Continental Shelf – refers to areas of seabed territory (not water column) beyond the 200 nautical mile EEZ. 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 (UN CLCS).
3. Aside from its provisions defining maritime boundaries, the Convention also establishes general obligations for safeguarding the marine environment and protecting freedom of scientific research on the high seas, and also created a legal regime, the International Seabed Authority, for controlling mineral resource exploitation in seabed areas beyond national jurisdictions.

Status of Maritime Boundaries in Pacific Island Countries

4. The Maritime Boundaries Sector (MBS) has been implemented by the SOPAC Division since 2001 when the Programme passed from FFA to SOPAC. In cooperation with members the MBS undertakes a suite of technical tasks to assist PICs to define baselines and archipelagic potential, compute boundary solutions and deliver technical information reports. This technical information is produced in accordance with the provisions of UNCLOS and can be used by members to declare their baselines, sovereign boundaries and marine zones. At this time the Cook Islands, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Solomon Islands, Tuvalu

and Vanuatu work with the SOPAC Division's MBS to develop their maritime boundary solutions and the MBS holds data and other information pertinent to boundary development for these countries. The countries of Tonga and Samoa advise MBS that they have their own arrangements for maritime boundary development and the status of the Federated States of Micronesia and the Republic of Marshall Islands is unknown (however none of these 4 countries have declared their boundary information).

5. The MBS also assists the countries of Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Palau, Papua New Guinea, Solomon Islands, Tuvalu, Tonga and Vanuatu to develop and lodge their respective (and in some cases joint) Extended Continental Shelf (ECS) claims. At the time of writing, 8 PICs have submitted individual and/or joint ECS claims totalling some 1.8 million km² of additional sea bed territory in the Pacific Islands region. The MBS continues to support the completion of these submissions and preparation for the defence of these claims to the UN Commission on Limits of the Continental Shelf (UNCLCS).

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

6. Given the importance of marine resources to the welfare and economic development of Pacific Island Countries a vital first step in securing, managing and providing adequate policy and governance frameworks within regional and national jurisdictions will be to accurately define and declare baselines, archipelagic status (where applicable), maritime zones, outer high seas limits and shared boundary solutions.
7. Accurately defined and declared maritime zones and boundaries will be important to realising improved migratory fish stock management and vessel monitoring, including successful prosecution of illegal vessels. Likewise, recent interest in deep sea minerals exploration and exploitation also offers significant regional challenges if maritime boundaries and zones remain poorly defined. Such resources will in some cases lie across geopolitical boundaries and appropriate and equitable management of neighbouring sovereign interests will be reliant on clear definitions of those sovereign boundaries.
8. Related is the recent success of PICs in submitting Extended Continental Shelf claims for additional sea bed territory beyond existing and notional EEZs. These claims will undergo technical and legal review by UNCLCS over the coming years and given these ECS claims are constrained by both geophysical seabed features and/or accurate measurement from declared baselines and maritime outer limits, it will be advantageous if PICs work towards defining and declaring their maritime zones and limits before ECS defence is undertaken (the first PICs with ECS claims are likely to have to defend these within the next 3 to 4 years).

Climate change

9. As explained in this brief, boundary baselines are the fundamental starting point from which maritime zones, shared boundaries and ECS claims are drawn. In PICs the greater majority of baselines are associated with an island or island group's outermost reef edge at lowest astronomical tide (i.e. when the reef edge becomes exposed, if only by a few centimetres at very low tide). There are other more complex considerations which are not articulated here, but in essence the use of the living reef edge is common in our region, is consistent with UNCLOS

provisions and allows PICs to maximise the potential maritime zone area that can be declared since outer reef edges are frequently some distance seaward from actual island shoreline.

10. The IPCC (2007) indicates sea level rise is occurring at the mean global rate of approximately 3mm per year. This same report discusses the potential impacts on tropical coral reef systems through increased sea surface temperature (coral bleaching) and ocean acidification (potential damage to reef growth and structure). Given the potential importance of living outer reef edges to PIC maritime zone and boundary baselines, it would appear advantageous to utilise these presently well defined reef edges to declare sovereign baseline positions now. It is important to note that once a coastal state has declared and lodged its baseline coordinates in accordance with the provisions of UNCLOS, only that State can then seek to have these positions updated or changed if it so wished (and it would only presumably do this if such a change was advantageous).
11. It must be stressed that the actual threat to PIC baseline features or reef edges, is presently very poorly understood. However given the uncertainty, a sound precautionary strategy would be to secure present potential maritime zones using these features and thus avoid any possible ambiguity which may cloud this approach in the future.

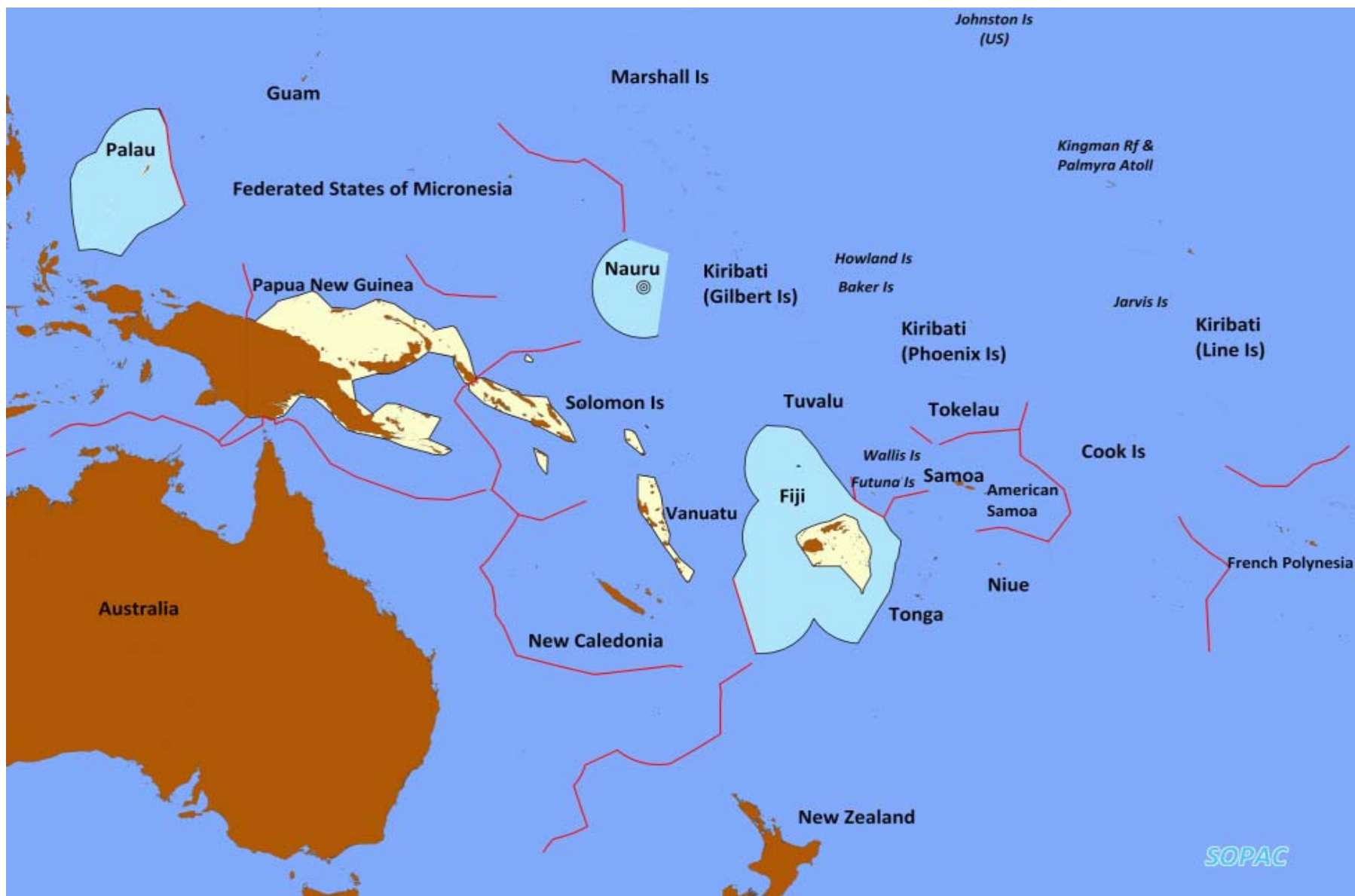
Summary of the present status of maritime boundary development in Pacific Island Countries.

12. At the time of writing only Fiji, Nauru and Palau have declared their maritime baselines, zones and outer limits in accordance with UNCLOS and Papua New Guinea, Solomon Is. and Vanuatu have declared only their archipelagic baselines. Of these countries, four (Fiji, Palau, Solomon Is. and Papua New Guinea) are in the process of verifying / updating the data used (pre 2001) to declare their respective baselines and maritime zones. Of the region's 48 shared boundaries, only 21 are presently subject to treaty.

Tasks	CK	FJ	FSM	KI	RMI	NR	NU	PW	PG	SI	TV	TN	VU	WS
Baseline Reports developed	Yes	Yes	Status unknown ?	Work in progress	Status unknown ?	Yes	Yes	Own arrangements – being reviewed at PW request.	Yes	Yes	Yes	Status unknown/own arrangements ?	Yes	Status unknown/own arrangements ?
Achiapelagic Status defined report developed	NA	Yes – being reviewed at FJ request	?	Work in progress	?	NA	NA	Yes – being reviewed at PW request	Yes	Yes	In progress	?	Yes	?
Boundaries computed & reports developed	Yes	Review in progress	?	Work in progress	?	Yes	Yes	Yes – being reviewed at PW request	Work in progress	Work in progress	Yes	?	Work in progress	?
ECS claims complete	Yes	Yes - work in progress	Yes - work in progress	Work in progress	NA	NA	NA	Yes - work in progress	Yes	Yes - work in progress	Work in progress	Yes - work in progress	Yes - work in progress	NA
Baseline Gazzetted	No	NA	No	No	No	Yes	No	NA	NA	NA	No	No	NA	No
Achiapelagic Baseline Gazzetted	No	Yes – being reviewed	No	No	No	NA	NA	Yes – being reviewed	Yes – being reviewed	Yes – being reviewed	No	No	Yes – being reviewed	NA
Boundaries / Zones Gazzetted	No	Yes – being reviewed	No	No	No	Yes	No	Yes – being reviewed	No	No	No	No	No	No
Baselines deposited with UNCLOS	No	Yes – being reviewed	No	No	No	Yes	No	Yes – being reviewed	Yes – being reviewed	Yes – being reviewed	No	No	Yes – being reviewed	No
Boundaries deposited with UNCLOS	No	Yes – being reviewed	No	No	No	Yes	No	Yes – being reviewed	No	No	No	No	No	No
ECS claim deposited with UNCLCS	Yes - work in progress	Yes - work in progress	Yes - work in progress	Deadline 03/01/13 - work in progress	NA	NA	NA	Yes - work in progress	Yes - work in progress	Yes - work in progress	Deadline 26/03/13 - work in progress	Yes - work in progress	Yes - work in progress	NA

SOPAC DIVISION Division

Country Responsibility



Regional map indicating those PIC maritime boundaries which have been declared and lodged in accordance with UNCLOS.

Present challenges towards declaration

13. Whilst the MBS can and has delivered a great many completed data and information products to members and these are appropriate to underpin baseline and marine zone declaration as well as shared boundary negotiation and treaty development, few PICs have declared their baselines and marine zones and only 21 of the 48 shared boundaries in the region are subject to treaty. The MBS continues to support members in this important work and some countries still have significant technical and legal work to be completed before they can declare their baselines and zones, there are others which could move ahead quite rapidly. It is important to emphasize that only the sovereign interest involved can publically declare their respective boundary information and ultimately lodge this data with UNCLOS, likewise only the countries involved can open diplomatic discussion or negotiations with regards to the development of shared boundary treaties.
14. The mandated regional role of the SOPAC Division with regards to maritime boundaries is to offer and maintain technical support to members, yet maritime boundaries development is a complex and inextricably linked technical, legal and diplomatic process. The SOPAC Division MBS is not mandated or resourced to secure dedicated maritime boundaries legal assistance to PICs and we assist on this aspect of boundaries development via our technical partnerships with Geoscience Australia, UNEP GRID Shelf Programme and Commonwealth Secretariat, all of whom complement the technical capacity in the MBS and PIC boundary teams, offering varying levels of maritime boundaries legal assistance. This technical partnership was instrumental in producing the very successful PIC approach to extended continental shelf claim submissions over the last 3 years.

In summary

15. Whilst some PICs do have adequate data to allow the declaration of their baseline information and marine zones several issues appear to hinder this next vital step.
 - Lack of regional and national capacity and awareness of Law of the Sea policy and legal support towards marine spaces and resource management issues, which can take the technical recommendations and products developed by MBS and translate these into policy and diplomatic solutions.
 - In some countries existing legal and policy frameworks which govern the definition of maritime zones are out dated and actually exclude the use of modern (and far more accurate) methods of boundary survey and mapping. Such frameworks require updating to allow the use of contemporary and improved techniques to define baselines and maritime zones.
 - Some countries due to their geographic size and isolation still require significant field and ground survey work to accurately define baselines. This is both logistically difficult and resource intensive work which requires greater financial support if these surveys are to be accurately and systematically undertaken in the near future.
16. Key to the progression and development of maritime boundary solutions in the region and declaration of PIC maritime baselines and jurisdictions will be the recognition by members of the importance and urgency of this issue. Third party agencies such as SPC and our technical partners can only undertake certain levels of tasks at the request of and in cooperation with member States.

17. The declaration of maritime baselines and zones must be lead by each individual sovereign interest and likewise the desire to finalise solutions for shared boundaries (treaty development) can only be instigated at a diplomatic level by those sovereign interests involved.
