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Pacific maritime zones status update

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Summary/short description/key points:

Under the 1982 United Nations Convention on the Law of the Sea (UNCLOS), coastal states are obliged to delimit, negotiate, declare, and publish their maritime zones, including exclusive economic zones (EEZs). Clear maritime zones underpin ocean governance, peace and security, marine conservation, and fisheries management in Pacific Island countries (PICs).

Since 2001, the Pacific Community (SPC) has been coordinating the work of the Pacific Maritime Boundaries Consortium of partners to assist countries in surveying basepoints, mapping, negotiating, and declaring their maritime zones. Significant progress has been made over the last 22 years, with 20 shared boundaries successfully declared across the region, the most recent of which was the boundary between Fiji and Solomon Islands at the Pacific Leaders Meeting in 2022.

Nonetheless, work remains to be done. Another 12 shared boundaries remain to be signed, and 6 Pacific Island Countries have yet to deposit information about their EEZ areas with the UN. These actions are critical to secure maritime jurisdictions, particularly in the context of the 2021 Leaders Declaration on Preserving Maritime Zones in the face of climate change-related sea-level rise and the recently finalised treaty on conservation and sustainable management of marine biodiversity in areas beyond national jurisdiction (BBNJ).

Key points for noting:

- a. note the priority Pacific Island Leaders have 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;
- b. note the heightened urgency to complete maritime zone negotiation and deposits in the context of the 2021 Leaders' Declaration on Preserving Maritime Zones in the face of climate change-related sea-level rise and the recent conclusion of the international legally binding instrument on conserving and managing marine biodiversity in areas beyond national jurisdiction (BBNJ);
- c. note that the majority of maritime limits and boundaries 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;
- d. 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
- e. note that coordination of relevant agencies at the national level may be required to facilitate efforts to finalise maritime zones.

Purpose

1. This paper provides an update on the regional progress on maritime zone 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 to the Convention and thus share common requirements 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** — the zone 24 nautical miles seaward from the baseline.
 - d. **Exclusive Economic Zone (EEZ)** — the zone 200 nautical miles 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 at least 200 nautical miles seaward from the baseline. In some circumstances, it extends beyond 200 nautical miles.
 - f. **Extended Continental Shelf (ECS)**- in order to make a claim for continental shelf beyond 200 nautical miles, a coastal state must meet certain geophysical and geological criteria and present an evidence-based submission for technical review to the UN Commission on the Limits of the Continental Shelf (UNCLCS).
5. 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 publishes its baselines and maritime zones and deposits these with the UN. This process, as provided for under UNCLOS, empowers Pacific Island countries and states to control activities which make use of the marine resources and contributes to improving global and regional ocean governance.
6. The Pacific Community (SPC) has coordinated the work of the Pacific Maritime Boundaries Consortium of partners to assist countries in surveying, mapping, negotiating, and declaring their maritime zones since 2001. The Consortium includes the Pacific Islands Forum Secretariat, the Forum Fisheries Agency, the Office of the Pacific Ocean Commissioner, as well as technical and donor partners from Australia, New Zealand, the European Union, the United Kingdom, and the Commonwealth.

7. The Pacific Maritime Boundaries Consortium of partners is guided by the priorities of member countries and focuses primarily on building capacity at the national level with technical, legal, and diplomatic focal points to lead the fundamental task of establishing maritime zones. Over 20 years of continued collaboration, SPC and Consortium partners have supported countries to successfully declare 19 shared boundaries across the region.

Progress and March 2023 Status Update- refer to map and table in Annex 1

8. **EEZ Limits-** In 2011, only Palau, Fiji, and Nauru had declared information about their baselines, archipelagic baselines, or the outer limits of their EEZs in accordance with UNCLOS. Since then, the Cook Islands, Federated States of Micronesia, Kiribati, Republic of the Marshall Islands, Niue, Tuvalu, and Samoa have also completed and declared information about their baselines and maritime zones with the UN. Papua New Guinea, Solomon Islands, and Vanuatu have declared only their archipelagic baselines. Palau, Fiji, and Nauru are in the process of updating their deposits based upon more recent surveys and updated national legislation.
9. **Shared Maritime Boundaries-** In the Pacific Islands region, there are 48 overlapping or shared EEZs where negotiations are vital to settle the outer boundary between their maritime zones. From these 48 shared EEZs, 36 maritime treaties have been successfully negotiated and signed by their respective leaders. The most recent of these was signed between Fiji and Solomon Islands at the 2022 Pacific Island Forum Leaders Meeting.
10. **Extended Continental Shelf-** At present, there are 10 PICs with 9 extended continental shelf (ECS) claims and 6 preliminary information notes at various stages in the queue awaiting examination and recommendations from the United Nations Commission on the Limits of the Continental Shelf (CLCS). Of these, 3 of the 9 claims have been reviewed and 2 have received recommendations. Partial claims and preliminary information notes require additional information before they can be reviewed.
11. Since 2020, SPC has provided authoritative maritime zone data with the Forum Fisheries Agency (FFA) via a service level agreement. This ensures that the maritime zones depicted on the FFA Vessel Monitoring System align with coordinates as declared in national legislation and, where relevant, deposited with the UN.
12. Further information on the current status of maritime zones and access to relevant treaties and data are available on the Pacific Maritime Boundaries Dashboard on the Pacific Data Hub: <https://pacificdata.org/dashboard/maritime-boundaries>. This dashboard was launched at the Pacific Islands Forum Leaders Meeting in 2022.

Important issues related to status of maritime zones in the region

13. In recent years, and through the advocacy efforts of the Consortium, this work has received increased attention and priority in the context of climate change. In 2010, Pacific Island Leaders endorsed the Framework for a Pacific Oceanscape, recommending as first priority that countries fix their baselines and maritime boundaries to ensure sea-level rise does not result in reduced jurisdictions. Since then, numerous Leaders' Communiqués have reinforced this message.
14. One of the strongest and most influential of these messages is the Pacific Island Leaders 2021 Declaration on Preserving Maritime Zones in the face of climate change-related sea-level rise. This declaration is a global first, and makes clear the regional collective intention to maintain maritime zones, once established and notified to the UN, without reduction. This position

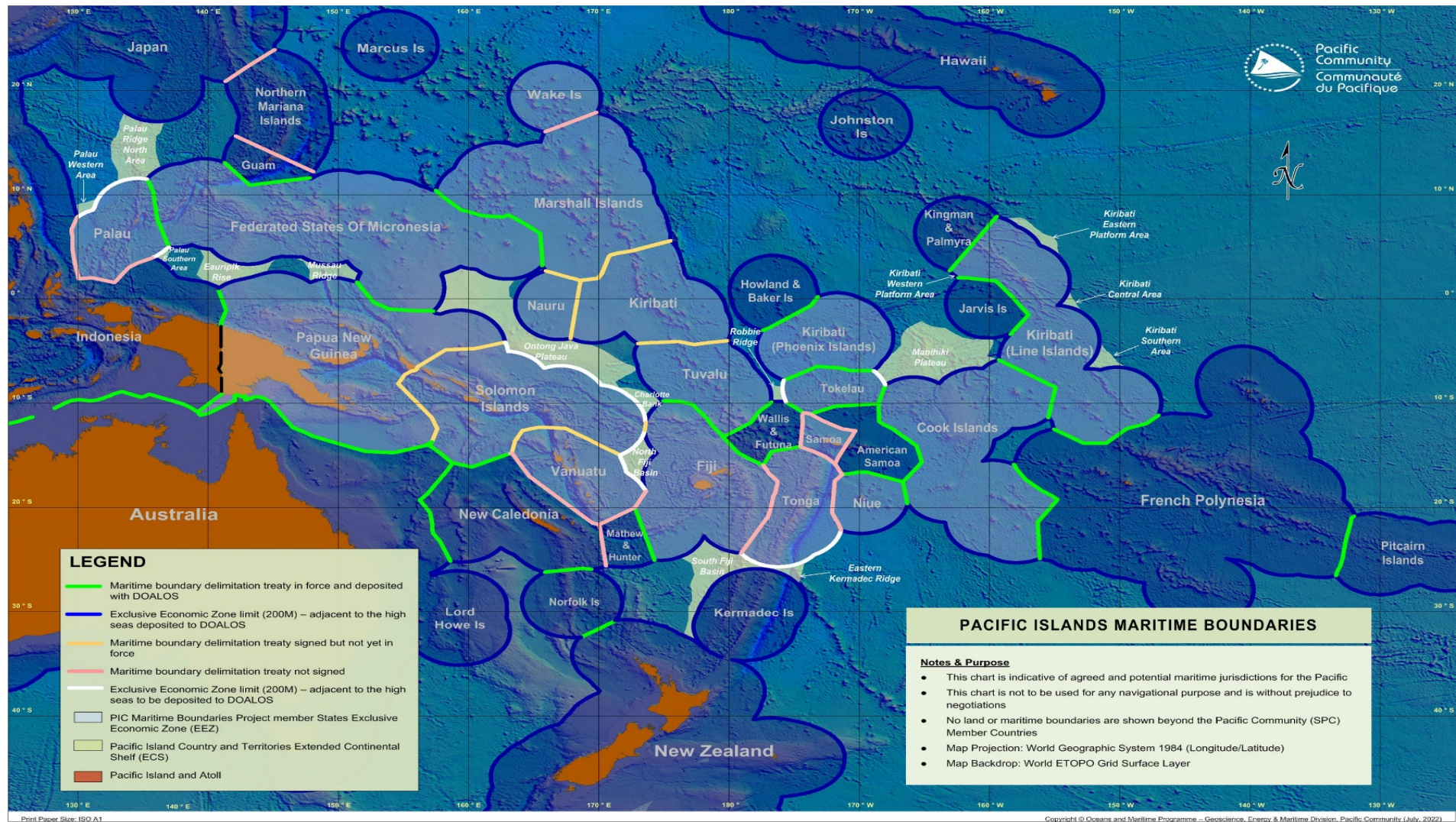
further underscores the urgency to declare and deposit these zones in accordance with UNCLOS, and indeed, the continued progress on maritime zone establishment is now an action under the Forum Officials Committee (FOC) Specialised Subcommittee on Sea Level Rise and International Law (SSC SLRIL).

15. In addition, on 4 March 2023, UN member countries finalised a text to ensure conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). This landmark treaty, once ratified, will have implications for global ocean governance, including establishment of high seas protected areas. As approximately 49% of international waters are in the Pacific Ocean, this further amplifies the urgency to establish certainty and clearly define maritime zones and national jurisdictions in our region.















Key points for noting:

16. note the priority Pacific Island Leaders have 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;
17. note the heightened urgency to complete maritime zone negotiation and deposits in the context of the 2021 Leaders' Declaration on Preserving Maritime Zones in the face of climate change-related sea-level rise and the recent conclusion of the international legally binding instrument on conserving and managing marine biodiversity in areas beyond national jurisdiction (BBNJ);
18. note that the majority of maritime limits and boundaries 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;
19. 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
20. note that coordination of relevant agencies at the national level may be required to facilitate efforts to finalise maritime zones.

Annex 1 Regional map



Regional Progress Matrix

MARCH 2023	CK	FJ	FM	KI	MH	NR	NU	PW	PG	SB	TV	TO	VU	WS
Tasks														
Territorial seas (normal) baseline defined and <u>developed</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	WIP	WIP (Torres Strait)	Yes	Yes	WIP	Yes	Yes
Archipelagic baseline defined and <u>developed</u>	NA	Yes updated	NA	Yes	Yes	NA	NA	Yes	Yes	Yes	Yes	WIP	Yes	NA
National maritime laws reviewed and <u>amended</u>	Yes	WIP	WIP	Yes	Yes	Yes	Yes	WIP	Yes	WIP	Yes	WIP	Yes	Yes
Territorial seas (normal) baseline <u>gazetted</u>	Yes	Yes	Yes	Yes	Yes	WIP Review	Yes	WIP	Yes (Torres Strait)	Yes	Yes	WIP	Yes	Yes
Archipelagic baseline <u>gazetted</u>	NA	Yes	NA	Yes	Yes	NA	NA	WIP	Yes	Yes	Yes	WIP	Yes	NA
Maritime limits computed & <u>developed</u>	Yes	WIP	Yes	Yes	Yes	Yes	Yes	WIP	Yes (Torres Strait)	WIP	Yes	WIP	WIP	Yes
Maritime limits <u>gazetted</u>	Yes	WIP (1981) TS, EEZ	Yes	Yes	Yes	WIP Review	Yes	No	Yes (Torres Strait)	WIP	Yes	No	No	YES TS, CZ
Territorial seas (normal/archipelagic) baselines deposited with DOALOS	Yes	Yes - updated	Yes	Yes	Yes	WIP Review	Yes	WIP Review	WIP	WIP	Yes	No	Yes	Yes
Maritime boundaries deposited with <u>DOALOS</u>	Yes	Yes (3)	Yes	Yes	Yes	WIP Review	Yes	WIP	WIP	No	Yes TS, EEZ No-CZ	No	No	Yes TS, CZ

Maritime Boundary Treaties														
Shared boundaries agreed	Yes (5)	Yes (3)	Yes (4)	Yes (9)	Yes (3)	Yes (2)	Yes (2)	Yes (1)	Yes (4)	Yes (4) *WIP (1)	Yes (3)	Yes (1) *WIP (3)	Yes (1)	No
Shared boundaries for Negotiations	Completed	Yes (2) FJ/VU FJ/TO	Completed	Completed	Yes (1) MH/US	Completed	Completed	Yes (2) PW/ID PW/PH	Completed	Completed	Completed	Yes (1) TO/FJ	Yes (2) VU/FJ VU/FR	Yes (2) WS/TK WS/WF
Agreement (charts and schedule of coordinates) drafted	Completed	Yes (1) FJ/SB	Completed	Completed	No	Completed	Yes (1) NU/TO	No	Completed	Yes (1) SB/FJ	Completed	Yes (3) TO/AS TO/WS TO/NU	No	Yes (2) WS/TO WS/AS
Draft agreement endorsed	Completed	WIP (1) FJ/SB	Completed	Completed	No	Completed	WIP (1) NU/TO	No	Completed	WIP (1) SB/FJ	Completed	WIP (3) TO/AS TO/WS TO/NU	No	Yes (1) WS/TO WS/AS
Boundary agreements signed	Yes (5)	Yes (4)	Yes (4)	Yes (9)	Yes (3)	Yes (2)	Yes (2)	Yes (1)	Yes (4)	Yes (4) *WIP(1)	Yes (3)	Yes (1)	Yes (1)	No
Boundary agreements ratified	Yes (5) CK/KI CK/PF CK/NU CK/AS CK/TK	Yes (2) FJ/FR W&F: M&H WIP (2) FJ/TV FJ/SB	Yes	Yes (1) KI/FR WIP (8) KI- TV, NR, MH, NZ, US (3), CK	Yes (1) MH/FM WIP (2) MH/KI MH/NR	WIP(2) NR/KI NR/MH	Yes (2) NU/CK NU/US	Yes (1) PW/FM	Yes (4) PG/IN PG/AU *WIP (2) PG/SB PG/FM	Yes (4) SB/AU SB/FR SB/PG SB/VU	Yes (2) TV/FR TV/KI	No	Yes (1) VU/SB	No
Dip notes exchanged(entry into force)	Yes (5)	Yes WIP (2) FJ/TV FJ/SB	Yes	Yes WIP (2) KI/FR KI/US	Yes (1) MH/FM	No	Yes (2) NU-CK, US	Yes (1) PW/FM	Yes (2) *WIP (2) PG/SB PG/FM	Yes (4)	Yes (1) TV/KI	No	Yes (1) VU/SB	No
Treaty deposited with DOALOS	Yes (5)	Yes (2) FJ-FR,TV	Yes (4)	Yes (3) KI-TV, NZ, CK	Yes (1) MH/FM	No	Yes (2) NU-CK, US	Yes (1) PW/FM	Yes (4)	Yes (4) SB- AU,FR,PG,VU	Yes (2) TV-FJ,FR	Yes (1) TO/WF	Yes (1) VU/SB	No