

LIMITS IN THE SEAS

No. 134

COMOROS

ARCHIPELAGIC AND OTHER MARITIME CLAIMS AND BOUNDARIES

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This study is one of a series issued by the Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs in the Department of State. The purpose of the series is to examine a coastal State's maritime claims and/or boundaries and assess their consistency with international law. This study represents the views of the United States Government only on the specific matters discussed therein and does not necessarily reflect an acceptance of the limits claimed.

This study, and earlier studies in this series, may be downloaded from <http://www.state.gov/e/oes/ocns/opa/c16065.htm>. Comments and questions should be emailed to LimitsInTheSeas@state.gov. Principal analysts for this study are Brian Melchior and Kevin Baumert.

Introduction

This study analyzes the maritime claims and maritime boundaries of the Union of the Comoros, including its archipelagic baseline claim. Comoros Law No. 82-005 relating to the delimitation of the maritime zones of the Islamic Federal Republic of the Comoros of 6 May 1982 (Annex 1 to this study) took effect July 28, 1982, and established a 12-nautical mile (nm) territorial sea and a 200-nm exclusive economic zone (EEZ).¹ The Law also provided for the use of archipelagic baselines, the coordinates for which were later set forth in Comoros Presidential Decree No. 10-092 of August 13, 2010 (Annex 2 to this study).² The archipelagic baselines are shown on Map 1 to this study. Comoros ratified the United Nations Convention on the Law of the Sea (LOS Convention) on June 21, 1994.³

Basis for Analysis

The LOS Convention contains certain provisions related to archipelagic States. Article 46 provides that an “archipelagic State” means “a State constituted wholly by one or more archipelagos and may include other islands.” An “archipelago” is defined as “a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.”

Only an “archipelagic State” may draw archipelagic baselines. Article 47 sets out geographic criteria to which archipelagic States must adhere when establishing archipelagic baselines (Annex 3 to this study).

Under Article 47.1, an archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago, provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1. In addition, the length of any baseline segment shall not exceed 100 nm except that up to 3 percent of the total number of baselines may have a length up to 125 nm (Article 47.2).

¹ The text of Law No. 82-005 relating to the delimitation of the maritime zones of the Islamic Federal Republic of the Comoros of 6 May 1982, is available from UN Division for Ocean Affairs and the Law of the Sea (DOALOS), at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/COM.htm> and DOALOS, *Practice of Archipelagic States* 20-22 (1992).

² The text of the Comoros Presidential Decree No. 10-092 of August 13, 2010 is available from DOALOS, at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/com_mzn82_2011_e.pdf and *Law of the Sea Bulletin* No. 74, at 16-17 (2010). The Union of Comoros also communicated to the UN Secretary General that “geodetic system used to determine the list of geographical coordinates of points delineating the archipelagic baseline of the Union of the Comoros is the ‘IGN-50’ system, with nautical chart No. 5983 of the Marine Hydrographic and Oceanographic Service as a supporting document.” Available from DOALOS, at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/com_mzn82_2011_addcorr_e.pdf.

³ United Nations Convention on the Law of the Sea, Montego Bay, opened for signature Dec. 10, 1982, entered into force Nov. 10, 1994, 1833 UNTS 397, available from DOALOS, at: http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm.

Additional provisions of Article 47 state that such baselines shall not depart to any appreciable extent from the general configuration of the archipelago; that such baselines shall not be drawn, with noted exceptions, using low-tide elevations; and that the system of such baselines shall not be applied in such a manner as to cut off from the high seas or exclusive economic zone (EEZ) the territorial sea of another State (Article 47.3 - 47.5).

The LOS Convention further reflects the specific rights and duties given to archipelagic States over their land and water territory. Article 53 allows the archipelagic State to “designate sea lanes . . . suitable for the continuous and expeditious passage of foreign ships . . . through . . . its archipelagic waters and the adjacent territorial sea.” Also, Article 53.12 provides that “[i]f an archipelagic State does not designate sea lanes . . ., the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.”

Analysis⁴

Comoros is an archipelagic State located at the northern end of the Mozambique Channel in the Indian Ocean between northern Mozambique and northern Madagascar. Comoros consists of three main islands and a number of smaller islands and other features. Comoros also claims Mayotte, the sovereignty of which is contested with France (see below).

The archipelagic baseline system of Comoros is composed of 13 line segments, ranging in length from 1.62 nm (segment M-A) to 91.61 nm (segment C-D), with a total length of 345 nm. Comoros has drawn its archipelagic baselines using baseline points on the main islands (including Mayotte) as well as other features.

The archipelagic baseline system of Comoros meets the water-to-land area ratio set forth in Article 47.1:

Total Area = 17,847 square kilometers
 Water Area = 15,612 square kilometers
 Land Area = 2,235 square kilometers⁵
 Water-to-land area ratio = 6.99:1

However, Comoros’ use of baseline point B on Banc Vailheu is not consistent with Article 47.1, in that this feature is not among the outermost islands or drying reefs of the archipelago, nor does it fall under an exception under Article 47.4 relating to low-tide elevations. Banc Vailheu is neither an island nor a low-tide elevation, but rather an underwater feature. There does not appear to be any land or drying reefs in the vicinity of Banc Vailheu.

In accordance with Article 47.2 of the LOS Convention, none of the baseline segments exceed 100 nm in length. Annex 4 to this study lists the lengths of each segment.

⁴ The analysis was conducted in ESRI ArcMap 10, using the Universal Transverse Mercator, Zone 38 South, projection and is based on the World Geodetic System 1984 (WGS84) datum.

⁵ Land area number, which includes Mayotte, may be found in The World Factbook entry for Comoros, at: <https://www.cia.gov/library/publications/the-world-factbook/geos/cn.html>.

The configuration of the baselines does depart to an appreciable extent from the general configuration of the archipelago (Article 47.3), due to the use of baseline point B on Banc Vailheu. Banc Vailheu is more than 10 nm from the closest point on the island of Grand Comore.

None of the baselines appear to be drawn using low tide elevations (Article 47.4). The baselines are not drawn in a way that would cut off from the high seas or EEZ the territorial sea of another State (except France; see below regarding Mayotte) (Article 47.5).

In conclusion, the archipelagic baseline system of Comoros does not appear to be consistent with the LOS Convention. Baseline point B on Banc Vailheu, a submerged feature, is not consistent with either Article 47.1 (specifying that the baselines join the outermost points of the outermost *islands and drying reefs* of the archipelago) or Article 47.3 (requiring that the baselines not depart from the general configuration of the archipelago).

Finally, as noted above, the sovereignty of Mayotte is disputed between Comoros and France. Mayotte is administered as a Department and region of France. Six of the 13 baseline points in Comoros' archipelagic baseline system are used to enclose Mayotte. France has protested this use of baseline points on Mayotte as "not compatible with the status of Mayotte and . . . without legal effect."⁶ In December 2013, by Decree No. 2013-1177, France promulgated baselines, including straight baselines and closing lines, from which the territorial sea of Mayotte is measured.⁷

Territorial Sea, Exclusive Economic Zone, and Continental Shelf

By Law No. 82-005, the archipelagic waters of Comoros comprise those waters enclosed by the archipelagic baselines. Article 3 of the law provides that Comoros' 12-nm territorial sea is measured from the archipelagic baselines. Article 6 of Law No. 82-005 established a 200-nm EEZ measured from the baselines "or equidistant from the baselines of the Comorian coast and those of the coasts of foreign states opposite it." Law No. 82-005 does not address the contiguous zone or continental shelf. On June 2, 2009, Comoros submitted to the Commission on the Limits of the Continental Shelf preliminary information on the limits of its continental shelf beyond 200 nm.⁸

⁶ Note verbale No. 961 to the UN Secretary-General from the Permanent Mission of France to the United Nations, Dec. 23, 2011, *Law of the Sea Bulletin* No. 78, at 35 (2012). Also available from DOALOS at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn82_2011_fra_re_com_e.pdf.

⁷ Decree No. 2013-1177, dated Dec. 17, 2013, concerning the baselines for measuring the breadth of the territorial sea of the Department of Mayotte, available from DOALOS (pp. 6-8): http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/fra_mzn101_2014.pdf.

⁸ The preliminary information of Comoros is available from DOALOS, at: http://www.un.org/depts/los/clcs_new/commission_preliminary.htm.

Navigation

Articles 2 and 5 of Law No. 82-005 recognize the right of innocent passage through the archipelagic waters and territorial sea of the Comoros. Comoros' law does not mention the right of archipelagic sea lanes passage for all ships and aircraft. The LOS Convention provides that all ships and aircraft enjoy the right of archipelagic sea lanes passage, either through designated sea lanes and air routes or, where no such designations have been made, through the routes normally used for international navigation.

Article 8 of the law provides that, in the Comoros EEZ, the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines are available to all States, "provided that such freedoms are compatible with the provisions of the Convention on the Law of the Sea (no threat to the peace)."⁹ The provisions of international law to which the Comoros law refers are reflected in the LOS Convention, Parts V (pertaining to the EEZ); VI (pertaining to the continental shelf, including Article 79 pertaining to submarine cables and pipelines); and VII (pertaining to the high seas).

Maritime Boundaries

Comoros has established maritime boundaries with Mozambique, and has concluded maritime boundary agreements with Tanzania and Seychelles that are not yet in force. As of March 2014, Comoros had not yet established maritime boundaries with Madagascar and perhaps France (Mayotte). The boundaries are shown on Map 2 to this study.

Comoros' maritime boundary agreement with Mozambique, concluded in 2011, established a maritime boundary that separates their respective EEZs and continental shelves.¹⁰ The equidistance boundary is approximately 281 nm in length. It should be noted that Comoros used their archipelagic baselines, along with the baseline point on Banc Vailheu, to delimit the maritime boundary with Mozambique. Around the same time, Comoros, Mozambique, and Tanzania appear to have concluded an agreement on a tri-point where their three boundaries come together. As of March 2014, it appears as though this agreement is not yet in force.

Comoros concluded a maritime boundary agreement with Tanzania and with Seychelles, both in 2012. Around the same time, Comoros, Tanzania, and Seychelles appear to have concluded an agreement on a tri-point where their three boundaries come together. As of March 2014, it appears as though these agreements are not yet in force.

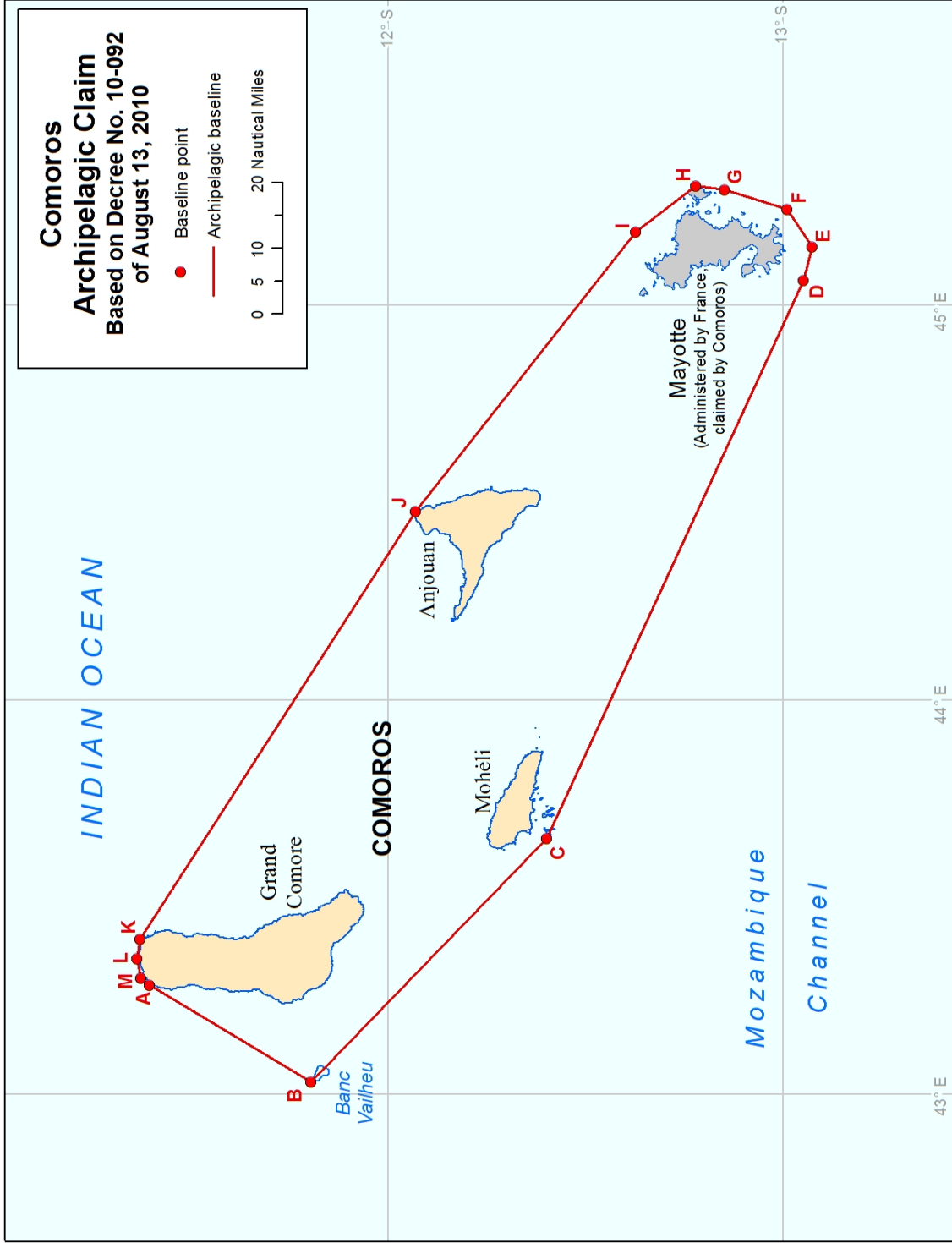
Comoros' undelimited boundaries with Madagascar and perhaps France are complicated by the sovereignty dispute with France over Mayotte and possibly the sovereignty dispute with France and Madagascar over Glorioso Islands. One provision of Law No. 82-005 addresses the situation of undelimited boundaries. Specifically, Article 6 of the law established a 200-nm EEZ measured from the baselines "or equidistant from the baselines of the Comorian coast and those of the coasts of foreign states opposite it, save as otherwise specifically agreed."

⁹ Parenthesis in original.

¹⁰ Agreement on the Delimitation of the Maritime Boundary between the Republic of Mozambique and the Union of the Comoros, Maputo, Dec. 5, 2011, *International Maritime Boundaries*, Report Number 6-26 (2013).

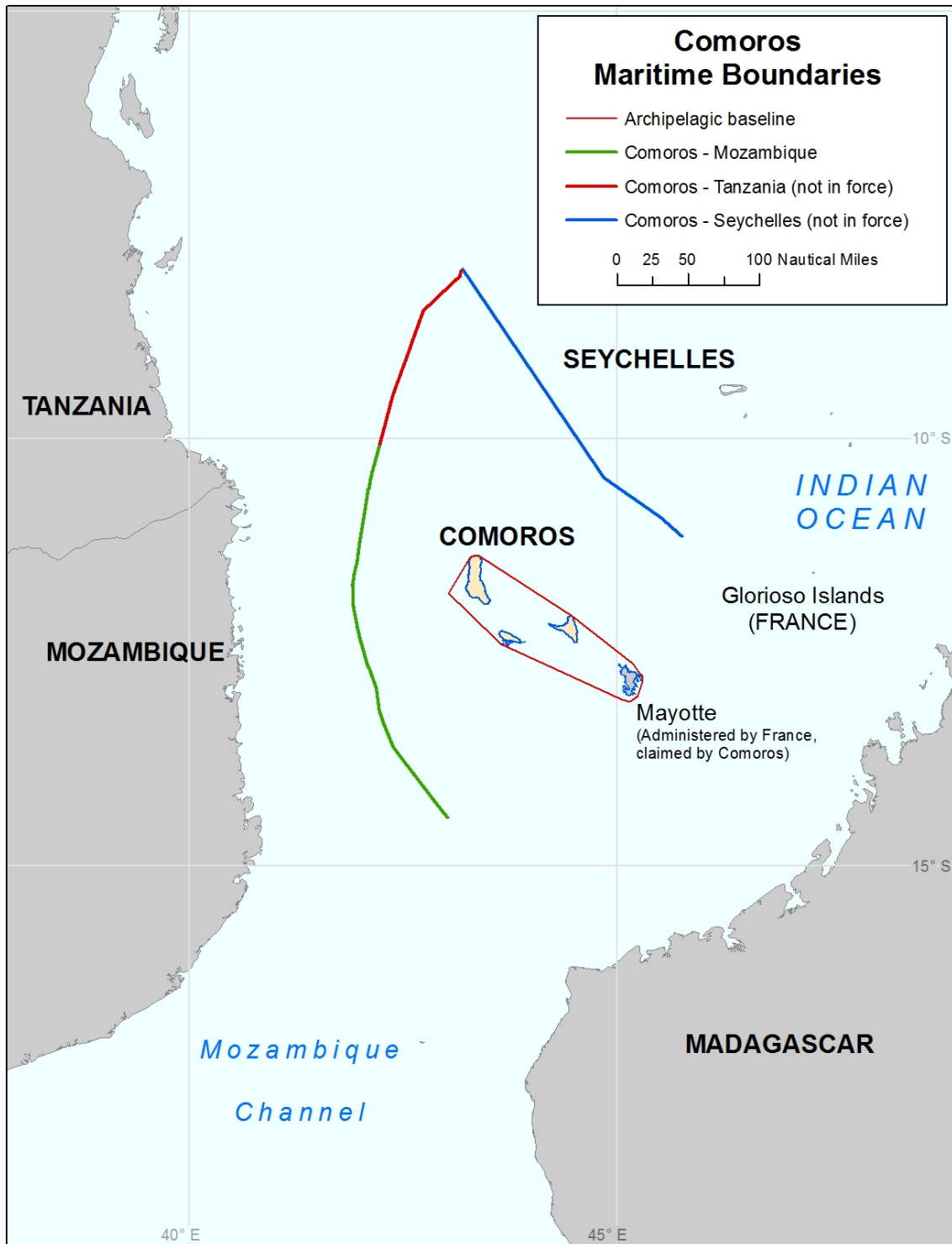
Map 1

Illustrative Map of Comoros' Archipelagic Baselines



Map 2

Illustrative Map of Comoros' Maritime Boundaries



Annex 1**Law No. 82-005 relating to the delimitation of the maritime zones
of the Islamic Federal Republic of the Comoros of 6 May 1982**

Deliberating in accordance with the Constitution, adopted at its meeting of 6 May 1982 the following law:

**SECTION I
THE LEGAL STATUS OF THE ARCHIPELAGIC WATERS OF THE COMOROS,
OF THE AIRSPACE OVER THE ARCHIPELAGIC WATERS AND OF THEIR BED AND
SUBSOIL****Article 1**

The sovereignty of the Comorian State extends to the waters enclosed by the baselines, described as archipelagic waters, regardless of their depth or distance from the coast.

The "Comorian" State extends its sovereignty to the airspace over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

Article 2

The right of innocent passage through the archipelagic waters of the Comoros must be respected. The Comoros may, however, suspend temporarily in its waters the right of innocent passage if such suspension is essential for the protection of its security.

**SECTION II
THE LEGAL STATUS OF THE TERRITORIAL SEA OF THE COMOROS****Article 3****Limit of the territorial sea of the Comoros**

The Comoros limits its territorial sea to 12 nautical miles measured from baselines. The inner limit of the territorial sea is a line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 4**Rights, jurisdiction and duties of the Comoros in the territorial sea**

The sovereignty of the Comoros extends, beyond its land territory and internal or archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

This sovereignty extends to the airspace over the territorial sea as well as to its bed and subsoil.

Article 5**Right of innocent passage in the territorial sea**

Ships of all States, whether coastal or land-locked, shall enjoy the right of innocent passage through the territorial sea of the Comoros, which means that passage shall be continuous and expeditious and not prejudicial to the peace and good order or the security of the Comoros. The right of innocent passage may

be regulated or suspended by decree in accordance with international law. In the territorial waters of the Comoros, submarines must remain on the surface and show their flag.

**SECTION III:
LEGAL REGIME OF THE EXCLUSIVE ECONOMIC ZONE OF THE COMOROS**

**Article 6
Limit of the exclusive economic zone of the Comoros**

The exclusive economic zone is delimited on one side, by the outer limit of the territorial sea and, on the other side, by a line every point of which is at a distance of 200 miles from the nearest point on the baseline or equidistant from the baselines of the Comorian coast and those of the coasts of the foreign countries opposite it, save as otherwise specifically agreed.

**Article 7
Rights, jurisdiction and duties of the Comoros in the exclusive economic zone**

In its exclusive economic zone:

(a) The Comoros shall have sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and its subsoil and of the waters superjacent to the seabed, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.

(b) The Comoros shall have jurisdiction with regard to:
Marine scientific research;
Preservation of the marine environment;
Prevention of marine Pollution.

The conduct of scientific or technical research shall be subject to licensing by the Comorian State.

(c) All Comorians may fish freely in the exclusive economic zone of the Comoros.

**Article 8
Rights and duties of other States in the exclusive economic zone of the Comoros**

(a) In the exclusive economic zone of the Comoros, all States shall enjoy the freedom of navigation and overflight and of the laying of submarine cables and pipelines, provided that such freedoms are compatible with the provisions of the Convention on the Law of the Sea (no threat to the peace).

(b) Third States shall have regard to the rights and duties of the Comoros and comply with the laws and regulations enacted by it in accordance with the rules of international law.

(c) Conflict resolution: where a conflict arises between the interests of the Comoros and any other State or States, the conflict shall be resolved on the basis of equity, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

**Article 9
Conservation of living resources in the exclusive economic zone of the Comoros**

(a) The allowable level of exploitation of living and mineral resources in the exclusive economic zone shall be determined by decree.

(b) The Comoros shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation.

As appropriate, the Comoros and the subregional, regional and global organizations concerned [...] are not endangered by over-exploitation.

(c) The Comoros shall determine its capacity to exploit the living and mineral resources of the zone. Where it does not have the capacity to attain the allowable level of exploitation, it shall, through agreements, give other States access.

Article 10

Violations of the provisions of this Law and of the provisions of regulations adopted to give it effect shall be punishable by a fine of between 10 million and 80 million CFA Francs and/or temporary seizure of the vessel.

Article 11

Law No. 71-1060 of 24 December 1971 relating to the delimitation of French territorial waters is hereby repealed in the Comoros.

Order No. 78-003/DPM of 20 July 1978 specifying the limits of Comorian territorial waters is hereby repealed.

This law shall be applied as the law of the State.

Done at Moroni, 6 May 1982.

Annex 2

Decree No. 10-092 of August 13, 2010 Establishing the limits of the territorial sea of the Union of the Comoros

THE PRESIDENT OF THE UNION

CONSIDERING the Constitution of the Union of the Comoros of 23 December 2001,

CONSIDERING the Referendum Act of 23 December 2001 amending the Constitution of the Union of the Comoros, which was promulgated by Decree No 09-066/PR of 23 March 2009,

CONSIDERING the Declaration on the African Union Border Programme and its [endorsement] in its eleventh ordinary session held at Accra, Ghana, from 25 to 29 June 2007,

CONSIDERING Act No. 82-005 of 6 May 1982, concerning the delimitation of the maritime areas of the Federal Islamic Republic of the Comoros,

DECREES THAT

Article 1: The outer limit of the territorial sea of the Union of the Comoros is comprised of lines every point of which is at a distance of twelve (12) nautical miles from the nearest point of the archipelagic baseline as defined in article 2.

Article 2: The straight archipelagic baseline from which the breadth of the territorial sea is measured is an irregular polygon, whose vertices are defined by the geographical coordinates of the outermost points of the islands of Grand Comore, Mohéli, Anjouan, Mayotte and the following drying reefs:

<i>Points</i>	<i>Latitude" South</i>	<i>Longitude" East</i>
A: Mitsamiouli Beach, on North-West of Grand Comore	11°23'30"S	43°16'00"E
B: Blanc Vailheu South-West of Grand Comore	11°48'00"S	43°01'15"E
C: South-West of Mangnoughni islet, Mohéli	12°23'54"S	43°38'15"E
D: South-West of the reef south of Mayotte	13°03'00"S	45°03'40"E
E: Southern point of Mayotte	13°04'24"S	45°08'46"E
F: South-Eastern point of Mayotte	13°00'30"S	45°13'30"E
G: Outer edge of reef east of Mayotte	12°51'00"S	45°17'30"E
H: Pamadzi Island	12°46'40"S	45°18'00"E
I: North-Eastern point of Mayotte	12°37'30"S	45°11'00"E
J: North of Anjouan	12°04'00"S	44°28'30"E
K: North-East of Grand Comore	11°22'00"S	43°23'00"E
L: North of Grand Comore	11°21'36"S	43°20'00"E
M: North of Grand Comore	11°22'12"S	43°17'00"E

Article 3: The baseline between two consecutive points is the straight line that joins them and that does not exceed one hundred (100) nautical miles.

Article 4: This decree shall be registered, published in the official gazette of the Union of the Comoros and communicated wherever necessary.

(Signed) Ahmed Abdallah Mohamed **Samba**
(Seal of Union of the Comoros)

Annex 3**United Nations Convention on the Law of the Sea*****Article 47******Archipelagic baselines***

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.
2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.
3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.
4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.
6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those State shall continue and be respected.
7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or early enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.
8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.
9. The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Annex 4**Comoros Archipelagic Baseline Segments**

Baseline Segment	Length (nm)
A to B	28.35
B to C	50.87
C to D	91.61
D to E	5.16
E to F	6.80
F to G	9.89
G to H	4.34
H to I	11.39
I to J	53.22
J to K	76.24
K to L	2.97
L to M	3.00
M to A	1.62