

United States Department of State
*Bureau of Oceans and International
Environmental and Scientific Affairs*

Limits in the Seas

No. 139

Tuvalu:

Archipelagic and other Maritime Claims and Boundaries



LIMITS IN THE SEAS

No. 139

TUVALU

ARCHIPELAGIC AND OTHER MARITIME CLAIMS AND BOUNDARIES

May 23, 2014

**Office of Ocean and Polar Affairs
Bureau of Oceans and International Environmental and Scientific Affairs
U.S. Department of State**

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 Tuvalu, including its archipelagic baseline claim. The Tuvalu Maritime Zones Act 2012 (Annex 1 to this study), which commenced May 4, 2012, established a 12-nautical mile (nm) territorial sea, 24-nm contiguous zone, and a 200-nm exclusive economic zone (EEZ) as well as provisions pertaining to the continental shelf.¹ The Act also provided for the use of archipelagic baselines and other territorial sea baselines, the coordinates for which were set forth, respectively, in Tuvalu's Declaration of Archipelagic Baselines 2012 and Declaration of Territorial Sea Baselines 2012 (Annexes 2 and 3 to this study).² The archipelagic baselines are shown on Map 1 to this study. Tuvalu ratified the United Nations Convention on the Law of the Sea (LOS Convention) and consented to be bound by the 1994 Agreement Relating to the Implementation of Part XI of the Convention on December 9, 2002.³

Basis for Analysis

Archipelagic States

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 criteria to which an archipelagic State must adhere when establishing its archipelagic baselines (Annex 4 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

¹ The text of Maritime Zones Act 2012, is available at: http://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/2012/2012-0004/MaritimeZonesAct2012_1.pdf.

The text is also available from DOALOS at:

http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/tuv_maritime_zones_act_2012_1.pdf.

² Declaration of Archipelagic Baselines 2012 (Tuvalu LN No. 7 of 2012) is available at: http://tuvalu-legislation.tv/cms/images/LEGISLATION/SUBORDINATE/2012/2012-0007/DeclarationofArchipelagicBaselines2012_1.pdf and Declaration of Territorial Sea Baselines 2012 (Tuvalu LN No. 6 of 2012) is available at: http://tuvalu-legislation.tv/cms/images/LEGISLATION/SUBORDINATE/2012/2012-0006/DeclarationofTerritorialSeaBaselines2012_1.pdf. Both Declarations are available from DOALOS at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/TUV.htm>.

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.

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).

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.”

Normal Baseline / Reefs

Article 5 of the LOS Convention provides that the normal baseline “is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.” Article 6 of the Convention pertains to cases of “islands situated on atolls or of islands having fringing reefs” and provides that, in such cases, “the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.”

Analysis⁴

Tuvalu is an archipelagic State located in the Pacific Ocean between Fiji to the south, Wallis and Futuna (France) to the southeast, Kiribati to the north and east, and Tokelau (New Zealand) to the east. Tuvalu consists of nine coral atolls. The main island of Tuvalu is Funafuti, which is the largest in size and is the location of the capital and more than half of Tuvalu’s population.

Baselines

Section 7 of Tuvalu’s Maritime Zones Act 2012 provides for the use of archipelagic and normal baselines (including reefs). Tuvalu’s 2012 Regulations draw archipelagic baselines enclosing three of its islands and use the normal baseline for the remaining six islands.

Archipelagic Baselines

Tuvalu’s Declaration of Archipelagic Baselines 2012 (Annex 2 to this study) establishes an archipelagic baseline system enclosing the islands of Funafuti, Nukufetau, and Nukulaelae. The system is composed of sixty segments, ranging in length from 0.01 nm (TVBP0355-TVBP0356 and TVBP0359-TVBP0360) to 67.57 nm (TVBP0387-TVBP0388), with a total length of 262.55

⁴ Calculations for this analysis were conducted in ESRI ArcGIS 10, using the Universal Transverse Mercator, Zone 60 South, projection and are based on the World Geodetic System 1984 (WGS84) datum.

nm. Four of these segments connect the three atolls; the remaining very short segments connect the outermost points of the outermost drying reefs of each of the atolls.

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

Total Area = 3,878 square kilometers
 Water Area = 3,426 square kilometers
 Land Area = 452 square kilometers⁵
 Water-to-land area ratio = 7.58:1

In accordance with Article 47.2 of the LOS Convention, none of the baseline segments exceed 100 nm in length. Annex 5 to this study lists the lengths of each segment.

The configuration of the baselines does not appear to depart to any appreciable extent from the general configuration of the archipelago (Article 47.3). 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 (Article 47.5).

Therefore, Tuvalu's archipelagic baseline system set forth in its Declaration of Archipelagic Baselines 2012 appears to be consistent with Article 47 of the LOS Convention.

Normal Baseline / Reefs

Tuvalu's Declaration of Territorial Sea Baselines 2012 (Annex 3 to this study) provides the geographic coordinates for baseline points on six of Tuvalu's islands: Nanumea, Nanumanga, Niutao, Nui, Vaitupu, and Niulakita. As provided for in Section 7(1) of the Maritime Zones Act 2012, for these islands the baseline "shall be the low-water line of the seaward side of the reef fringing the coast of any part of Tuvalu or bounding any lagoon waters adjacent to any part of that coast, or where a reef is not present, the low-water line of the coast itself." This approach is consistent with Articles 5 and 6 of the LOS Convention. Tuvalu's normal baseline is not shown on the maps accompanying this study.

Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf

By the Maritime Zones Act 2012, the archipelagic waters of Tuvalu comprise those waters enclosed by the archipelagic baselines, and the internal waters of Tuvalu comprise those waters on the landward side of the normal baseline, including reef baseline points.⁶ Tuvalu's 12-nm territorial sea, 24-nm contiguous zone, and 200-nm EEZ are established in Sections 6, 10, and 11 of the Maritime Zones Act 2012 and are measured from Tuvalu's baselines.

⁵ Land area number includes lagoon waters of the atolls. See *infra* note 6.

⁶ Article 8(1)(b) of the Maritime Zones Act also provides that "the lagoons of any atolls" are internal waters. Thus, waters within the lagoons of Funafuti, Nukufetau, and Nukulaelae (which are enclosed by archipelagic baselines) appear to be internal waters. Article 50 of the LOS Convention permits an archipelagic State to define internal waters within its archipelagic waters.

Section 12 of the Act describes a 200-nm continental shelf. With respect to continental shelf beyond 200 nm, Section 12(3) the Act provides that Tuvalu may declare the outer limits of its continental shelf in connection with the recommendations of the Commission on the Limits of the Continental Shelf (CLCS). On December 7, 2012, Tuvalu, France and New Zealand (Tokelau) made a joint submission to the CLCS with respect to the continental shelf in the region of the Robbie Ridge.⁷

Tuvalu's Declaration of the Outer Limits of the Territorial Sea 2012, Declaration of the Outer Limits of the Exclusive Economic Zone 2012, and Declaration of the Outer Limits of the Continental Shelf 2012 set out the geographic coordinates (with illustrative maps) defining the outer limits of these maritime zones.⁸ The outer limits of these zones are shown on Map 2 to this study. The breadth of Tuvalu's territorial sea, exclusive economic zone and continental shelf appear to be consistent with the limits permitted in the LOS Convention.

Exclusive Economic Zone and Continental Shelf Jurisdiction

Section 15 of the Maritime Zones Act 2012 describes Tuvalu's rights in the EEZ and continental shelf, consistent with the relevant provisions of the LOS Convention. Section 16 of the Act describes the rights of other States in Tuvalu's maritime zones. Specifically, section 16(5) of the Act provides further that "all States shall enjoy in the exclusive economic zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and all other internationally lawful uses of the sea related to those freedoms." This provision aligns with Article 58.2 of the LOS Convention. Section 16(6) of the Act provides further that "all States may lay submarine cables and pipelines on the continental shelf in accordance with international law." Relevant provisions of international law relating to the laying of submarine cables and pipelines on the continental shelf are found in Part VI of the LOS Convention, in particular Article 79.

Navigation

Tuvalu's Maritime Zones Act 2012 recognizes certain navigational rights within the maritime zones of Tuvalu, including the right of archipelagic sea lanes passage through archipelagic waters and the right of innocent passage through archipelagic waters and the territorial sea. Section 16(1)(a) of the Act provides that Tuvalu may designate sea lanes for archipelagic sea lanes passage and prescribe traffic separation schemes.

An archipelagic State may designate such sea lanes, and also traffic separation schemes, provided that "an archipelagic State shall refer [such] proposals to the competent international organization with a view to their adoption" (Article 53, paragraphs 1 and 9). As the competent international organization, the International Maritime Organization (IMO) may "adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after

⁷ Joint Submission by Tuvalu, Republic of France and New Zealand (Tokelau), Dec. 7, 2012, available from DOALOS at: http://www.un.org/Depts/los/clcs_new/submissions_files/submission_tft_62_2012.htm.

⁸ Declarations are available from DOALOS at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/TUV.htm>.

which the archipelagic State may designate, prescribe, or substitute them (Article 53.9).⁹ As of May 2014, Tuvalu had not designated sea lanes or prescribed traffic separation schemes, nor had it presented proposals to this effect to the IMO. Consistent with Article 53.12 of the LOS Convention, Section 16(3) of Tuvalu's Maritime Zones Act 2012 states that, "Until sea lanes and air routes are designated . . . the rights of navigation and overflight referred to in subsection (2) [describing the right of archipelagic sea lanes passage] may be exercised through and over all routes normally used for international navigation and overflight."

Maritime Boundaries

Tuvalu has established maritime boundaries with Kiribati and, provisionally, with France (Wallis and Futuna). As of May 2014, Tuvalu had not established a maritime boundary with Fiji. Depending on the continental shelf beyond 200 nm, there may be undelimited boundaries between Tuvalu, France (Wallis and Futuna), and New Zealand (Tokelau). The maritime boundaries are shown on Map 2 to this study.

Tuvalu's maritime boundary agreement with Kiribati, concluded in 2012, establishes an EEZ and continental shelf boundary that is approximately 420 nm in length composed of geodesic lines connecting 20 points.¹⁰ The boundary separates the maritime zones generated by the islands of Nanumea and Niutao (Tuvalu) and Tabiteuea, Tamana, and Arorae (Kiribati).

Tuvalu's maritime boundary agreement with France (Wallis and Futuna) is provisional in nature.¹¹ The provisional boundary separates the islands of Nukulaelae and Nuilakita (Tuvalu) to the north and Wallis and Futuna (France) to the south. The two countries' diplomatic notes acknowledge the principle of equidistance as the basis for the boundary, but the agreement does not establish geographic coordinates. Tuvalu's 2012 Declarations set out the geographic coordinates (with illustrative maps) defining the provisional outer limits of Tuvalu's EEZ and continental shelf in the area located between Tuvalu and Wallis and Futuna.¹²

With respect to Fiji, Tuvalu's 2012 Declarations set out the geographic coordinates (with illustrative maps) defining provisional outer limits of Tuvalu's EEZ and continental shelf in the area located between Tuvalu and Fiji.¹³

⁹ Part H of the IMO Publication, *Ships' Routing*, adopted by the IMO Maritime Safety Committee by resolution MSC 71 (69) pursuant to SOLAS V/10 and Assembly Resolution A.572(14), as amended, sets forth the general provisions for the adoption, designation and substitution of archipelagic sea lanes.

¹⁰ Agreement between Tuvalu and Kiribati Concerning their Maritime Boundary, Rarotonga, Aug. 29, 2012, available at from DOALOS: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/tuv_mzn98_2013_Agreement_BetweenTuvaluandKiribati.pdf.

¹¹ Exchange of Notes between France and Tuvalu Constituting an Agreement Concerning Provisional Maritime Delimitation between the Two Countries, Aug. 6, 1985 and Nov. 5, 1985, entered into force Nov. 5, 1985, 1506 UNTS 35, VI *International Maritime Boundaries* 4330-4338 (2011).

¹² Declarations, *supra* note 8.

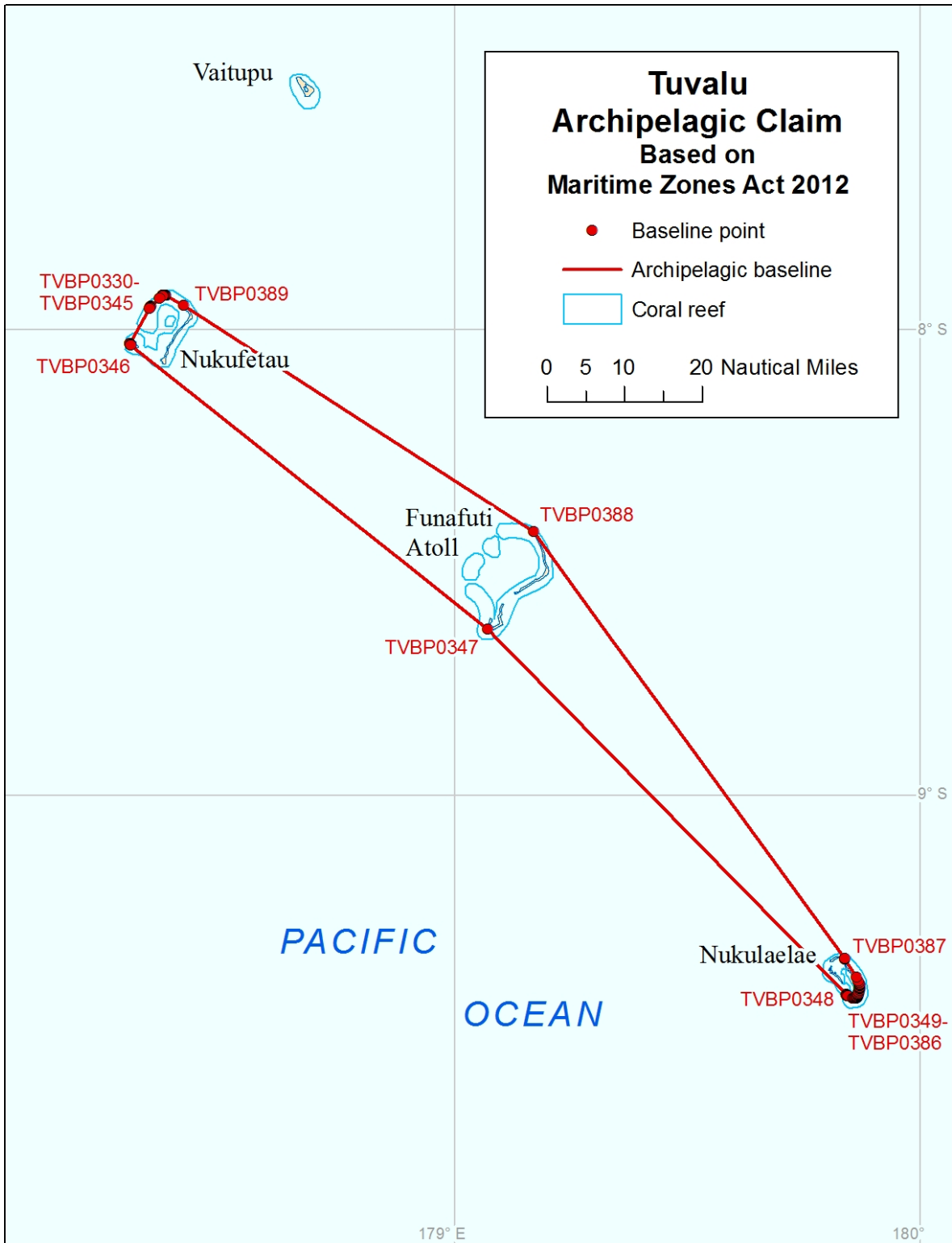
¹³ Declarations, *supra* note 8.

Conclusion

Tuvalu's archipelagic baseline system enclosing three of its islands appears to be consistent with the LOS Convention (Article 47), as does Tuvalu's approach to using the normal baseline for six of its islands (Articles 5 and 6). The provisions of Tuvalu's legislation pertaining to its maritime zones, including the navigation provisions, likewise appear to be consistent with international law as reflected in the LOS Convention.

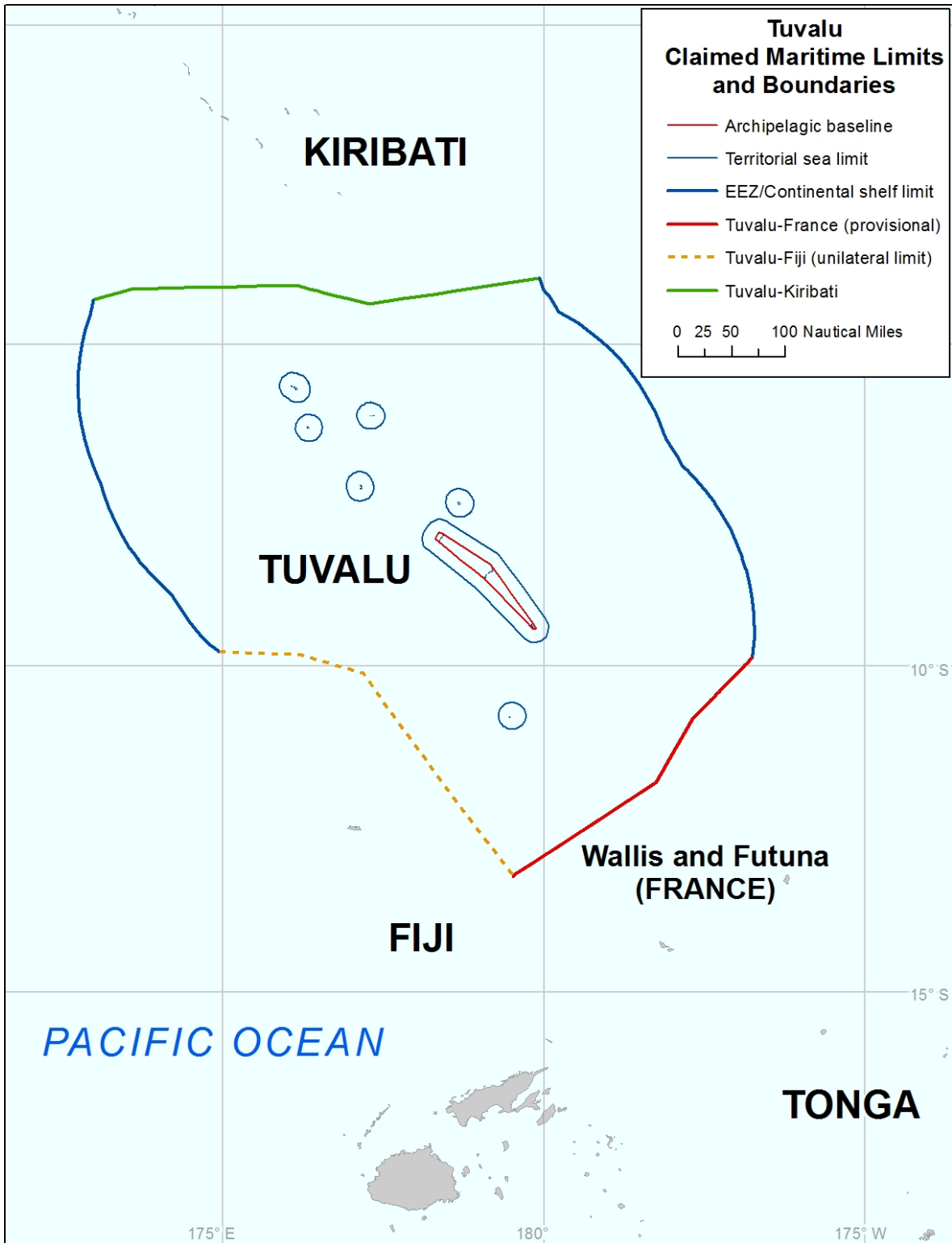
Map 1

Illustrative Map of the Archipelagic Baselines of Tuvalu



Map 2

Illustrative Map of the Maritime Limits and Boundaries of Tuvalu



Annex 1

Tuvalu MARITIME ZONES ACT 2012

May 4, 2012

AN ACT TO PROVIDE FOR THE INTERNAL WATERS, THE ARCHIPELAGIC WATERS, THE TERRITORIAL SEA, THE CONTIGUOUS ZONE, THE EXCLUSIVE ECONOMIC ZONE AND THE CONTINENTAL SHELF OF TUVALU.

1 Short Title

This Act may be cited as the Maritime Zones Act 2012.

2 Commencement

This Act shall commence on the date of publication.

3 Interpretation

(1) In this Act –

“**archipelago**” means a group of islands, including parts of islands, interconnecting waters and other natural features, which are so closely interrelated that they form an intrinsic geographical, economic and political entity, or have historically been regarded as such;

“**lagoon**” means the waters lying within the reef of an atoll;

“**low-water line**” means the line of low water at the lowest astronomical tide;

“**nautical mile**” means an international nautical mile of 1,852 metres.

(2) For the purposes of this Act, permanent harbour works that form an integral part of a harbour system shall be regarded as forming part of the coast, but this subsection does not apply to off-shore installations or artificial islands.

4 References to international law

Where in this Act it is provided that anything shall be done, or any law or order shall be made, in accordance with international law, the question, whether it was so done or made, is non-justiciable.

5 Application of this Act

The provisions of this Act shall be read subject to the provisions of any treaty or other international obligation which is ratified or finally accepted by Tuvalu.

PART 1 TERRITORIAL SEA

6 The territorial sea

(1) Subject to subsection (2), the territorial sea comprises those areas of the sea having –

(a) as their inner limits, the baseline described in section 7(1), and

(b) as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of that baseline.

- (2) Where archipelagic baselines are declared under section 7(3), the territorial sea comprises those areas of the sea having –
- (a) as their inner limits, the baseline described in section 7(2), and
 - (b) as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of that baseline.

7 Baselines of the territorial sea

- (1) Subject to subsection (2), the baseline from which the breadth of the territorial sea is measured shall be the low-water line of the seaward side of the reef fringing the coast of any part of Tuvalu or bounding any lagoon waters adjacent to any part of that coast, or where a reef is not present, the low-water line of the coast itself.
- (2) Where there is an archipelago, the baselines from which the breadth of the territorial sea is measured shall be archipelagic baselines, declared in accordance with subsection (3).
- (3) The Minister may, by order, declare, in accordance with international law, the geographic coordinates of points between which archipelagic baselines are to be drawn.

8 Internal waters

- (1) The internal waters of Tuvalu comprise –
- (a) all waters on the landward side of the baseline described in section 7(1) and
 - (b) the lagoons of any atoll.
- (2) The internal waters of Tuvalu are inland waters for the purpose of section 2(1)(a) of the Constitution of Tuvalu.

PART 2 ARCHIPELAGIC WATERS

9 Archipelagic waters

- (1) The archipelagic waters of Tuvalu comprise all waters enclosed by the archipelagic baselines declared under section 7(3).
- (2) The archipelagic waters of Tuvalu are part of the area of Tuvalu for the purpose of section 2(1)(b) of the Constitution of Tuvalu.

PART 3 CONTIGUOUS ZONE

10 Contiguous zone

- (1) Subject to subsection (2), the contiguous zone of Tuvalu comprises those areas of the sea that are beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 7(1), every point of which is distant 24 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the contiguous zone are a line measured seaward from that archipelagic baseline, every point of which is distant 24 nautical miles from the nearest point of that archipelagic baseline.

PART 4 EXCLUSIVE ECONOMIC ZONE

11 Exclusive economic zone

- (1) Subject to subsections (2) and (3), the exclusive economic zone of Tuvalu comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 7(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the exclusive economic zone are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, for the purpose of implementing any international agreement or the award of any international body, declare that the outer limits of the exclusive economic zone of Tuvalu are such as are specified in the order.

PART 5 CONTINENTAL SHELF

12 Continental shelf

- (1) Subject to subsections (2) and (3), the continental shelf of Tuvalu comprises those parts of the seabed and subsoil of the submarine areas beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 7(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is declared under section 7(3), the outer limits of the continental shelf are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, for the purpose of implementing any international agreement, the award of any international body or the recommendations of the Commission on the Limits of the Continental Shelf, declare that the outer limits of the continental shelf of Tuvalu are such as are specified in the order.

PART 6 RIGHTS IN THE MARITIME ZONES

13 Legal character of maritime zones

The sovereignty of Tuvalu extends to its land areas, internal waters, archipelagic waters and territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained in them.

14 Rights in the contiguous zone

Within the contiguous zone, Tuvalu has all rights necessary –

- (a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within its land areas, territorial sea and archipelagic waters, and
- (b) to punish any such infringement, and

all relevant laws of Tuvalu extend to the contiguous zone accordingly.

15 Rights in the exclusive economic zone and continental shelf

- (1) Within the exclusive economic zone, Tuvalu has sovereign rights –
 - (a) for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of –
 - (i) the seabed;

- (ii) the subsoil under the seabed, and
 - (iii) the waters over the seabed, and
- (b) 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.
- (2) Within the continental shelf, Tuvalu has –
 - (a) sovereign rights for the purpose of exploring it and exploiting its natural resources, and
 - (b) exclusive rights to authorise and regulate drilling on it for all purposes.
- (3) Within the exclusive economic zone and the continental shelf, Tuvalu has the exclusive right to construct, authorise and regulate the construction, operation and use of:
 - (a) artificial islands;
 - (b) installations and structures for the purposes provided in subsection (1), marine scientific research, the protection and preservation of the marine environment and other economic purposes, and
 - (c) installations and structures which may interfere with Tuvalu’s exercise of its rights in the exclusive economic zone or continental shelf.
- (4) Within the exclusive economic zone and continental shelf, Tuvalu has exclusive jurisdiction over the artificial islands, installations and structures referred to in subsection (3), including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.
- (5) Within the exclusive economic zone and continental shelf, Tuvalu:
 - (a) has jurisdiction with respect to protection and preservation of the marine environment, and
 - (b) has the right to regulate, authorise and conduct marine scientific research.
- (6) Within the contiguous zone, the exclusive economic zone and the continental shelf, Tuvalu has such other rights as are conferred or recognised by international law.

16 Rights of other States in maritime zones

- (1) The Minister may, by order –
 - (a) designate sea lanes and air routes suitable for the continuous and expeditious passage of foreign ships and aircraft through and over the archipelagic waters and the adjacent territorial sea;
 - (b) prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sea lanes, and
 - (c) prescribe sea lanes and traffic separation schemes for foreign ships exercising the right of innocent passage through the territorial sea.
- (2) In sea lanes and air routes designated under subsections (1)(a) and (1)(b), all ships and aircraft may, in accordance with international law, enjoy the right of navigation and overflight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic waters and the adjacent territorial sea, from one part of the high seas or exclusive economic zone to another part of the high seas or exclusive economic zone.

- (3) Until sea lanes and air routes are designated under subsections (1)(a) and (1)(b), the rights of navigation and overflight referred to in subsection (2) may be exercised through and over all routes normally used for international navigation and overflight.
- (4) Subject to subsections (2) and (3), ships of all States have, in accordance with international law, the right of innocent passage through the territorial sea and the archipelagic waters of Tuvalu.
- (5) Subject to this Act, any other law of Tuvalu, and international law, all States shall enjoy in the exclusive economic zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and all other internationally lawful uses of the sea related to those freedoms.
- (6) Subject to this Act and any other law of Tuvalu, all States may lay submarine cables and pipelines on the continental shelf in accordance with international law.

PART 7 DECLARATIONS, REPEAL OF MARINE ZONES (DECLARATION) ACT AND REGULATIONS

17 Declarations and official charts

- (1) The Minister may, by order, declare:
 - (a) the geographic coordinates of the points on the baseline described in s 7(1); or
 - (b) the geographic coordinates of the limits of the whole or any part of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf.
- (2) The Minister may cause the points declared under sections 7(3), 11(3), 12(3) and 17(1), to be clearly indicated on charts of a scale or scales adequate for them to be readily determined.

18 Evidentiary provisions

In any proceedings before a court or person acting judicially, a certificate signed by the Minister stating that a specified nautical chart is a chart to which section 17(2) applies is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it.

19 Repeal of Marine Zones (Declaration) Act

The Marine Zones (Declaration) Act is repealed.

20 Consequential amendments

A reference to the Marine Zones Declaration Act in any laws of Tuvalu shall be read as a reference to this Act.

21 Regulations

The Minister may make regulations to give effect to this Act, including but not limited to the following:--

- (a) regulating the conduct of marine scientific research within the exclusive economic zone and continental shelf;
- (b) regulating the exploration and exploitation, conservation and management of the natural resources within the exclusive economic zone;
- (c) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from the water, currents and winds, and for other economic purposes;

- (d) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone and the continental shelf, including requirements for the establishment of safety zones around any such island, installation or structure;
- (e) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone and continental shelf;
- (f) regulating the exploration and exploitation of the continental shelf and of its natural resources;
- (g) regulating drilling on the continental shelf and
- (h) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of Tuvalu in relation to its internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf, or as are necessary to give full effect to the provisions of this Act.

Annex 2

DECLARATION OF ARCHIPELAGIC BASELINES 2012

LN No. 7 of 2012

MADE UNDER SECTION 7(3) AND SECTION 16(1) OF THE MARITIME ZONES ACT
Commencement [22nd November, 2012]

1 Citation

This Order may be cited as the Declaration of Archipelagic Baselines 2012.

2 Commencement

This Declaration shall come into force on the date of publication.

3 Archipelagic baselines

- (1) The points between which straight archipelagic baselines are to be drawn, for the purpose of sections 7(2) and 7(3) of the Maritime Zones Act, are specified in Schedule 1.
- (2) The archipelagic baselines join to form an archipelago comprising Nukufetau, Funafuti and Nukulaelae.

4 Guide to reading Schedule 1

In the table in Schedule 1:

- (a) lines are generated by reference to points,
- (b) the first column sets out the point identifier,
- (c) the second and third columns set out the geographic coordinates for each point and
- (d) the fourth column describes the location of the point.

5 Geodetic framework

In this Declaration, points defined by geographic coordinates are determined by reference to the World Geodetic System 1984 (WGS 84). Points are connected by geodesic lines realised in the WGS 84.

6 Illustrative chart

The chart in Schedule 2 provides a general illustration of the archipelagic baselines specified in Schedule 1.

SCHEDULE 1 - GEOGRAPHIC COORDINATES

Point Identifier	Latitude	Longitude	Point Reference
TVBP0330	7° 55' 39.37" S	178° 22' 48.89" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0331	7° 55' 36.81" S	178° 22' 42.27" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0332	7° 55' 35.79" S	178° 22' 38.14" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0333	7° 55' 35.64" S	178° 22' 35.13" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0334	7° 55' 38.38" S	178° 22' 28.94" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0335	7° 55' 39.26" S	178° 22' 27.40" E	Further most point on reef north of Funaota islet in Nukufetau atoll
TVBP0336	7° 55' 41.60" S	178° 22' 24.16" E	Further most point on reef west of Funaota islet in Nukufetau atoll
TVBP0337	7° 55' 59.91" S	178° 22' 01.42" E	Further most point on "Paefa" reef west of Funaota islet in Nukufetau atoll
TVBP0338	7° 57' 01.96" S	178° 20' 57.50" E	Further most point on "Paefa" reef north

Point	Latitude	Longitude	Point Reference
			of Teafatule islet in Nukufetau atoll
TVBP0339	7° 57' 09.38" S	178° 20' 51.24" E	Further most point on "Paefa" reef north of Teafatule islet in Nukufetau atoll
TVBP0340	7° 57' 10.99" S	178° 20' 49.92" E	Further most point on "Paefa" reef north of Teafatule islet in Nukufetau atoll
TVBP0341	7° 57' 17.58" S	178° 20' 45.95" E	Further most point on "Paefa" reef north of Teafatule islet in Nukufetau atoll
TVBP0342	8° 01' 48.85" S	178° 18' 14.10" E	Further most point on reef west of Fale islet in Nukufetau atoll
TVBP0343	8° 01' 50.97" S	178° 18' 13.52" E	Further most point on reef west of Fale islet in Nukufetau atoll
TVBP0344	8° 01' 52.95" S	178° 18' 14.56" E	Further most point on reef west of Fale islet in Nukufetau atoll
TVBP0345	8° 01' 55.88" S	178° 18' 17.20" E	Further most point on reef west of Fale islet in Nukufetau atoll
TVBP0346	8° 02' 00.35" S	178° 18' 22.21" E	Further most point on reef west of Fale islet in Nukufetau atoll
TVBP0347	8° 38' 36.57" S	179° 04' 23.60" E	Further most point on reef close south of Avalau islet in Funafuti atoll
TVBP0348	9° 25' 42.68" S	179° 50' 33.53" E	Further most point on reef south-south west of Temotutafa islet in Nukulaelae atoll
TVBP0349	9° 25' 46.91" S	179° 50' 38.26" E	Further most point on reef south-south west of Temotutafa islet in Nukulaelae atoll
TVBP0350	9° 25' 48.93" S	179° 50' 40.58" E	Further most point on reef south-south west of Temotutafa islet in Nukulaelae atoll
TVBP0351	9° 25' 50.48" S	179° 50' 43.04" E	Further most point on reef south-south west of Temotutafa islet in Nukulaelae atoll
TVBP0352	9° 25' 52.27" S	179° 50' 45.92" E	Further most point on reef south-south west of Temotutafa islet in Nukulaelae atoll
TVBP0353	9° 26' 08.04" S	179° 51' 25.84" E	Further most point on reef south of Fenualangō islet in Nukulaelae atoll
TVBP0354	9° 26' 08.86" S	179° 51' 28.20" E	Further most point on reef south of Fenualangō islet in Nukulaelae atoll
TVBP0355	9° 26' 10.69" S	179° 51' 33.63" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0356	9° 26' 10.78" S	179° 51' 34.28" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0357	9° 26' 11.33" S	179° 51' 39.70" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0358	9° 26' 11.23" S	179° 51' 44.29" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0359	9° 26' 10.77" S	179° 51' 47.67" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0360	9° 26' 10.49" S	179° 51' 48.27" E	Further most point on reef south of the Motualama islet in Nukulaelae atoll
TVBP0361	9° 26' 08.01" S	179° 51' 53.59" E	Further most point on reef east-south east of Motualama islet in Nukulaelae atoll
TVBP0362	9° 26' 06.58" S	179° 51' 55.50" E	Further most point on reef east-south east of Motualama islet in Nukulaelae atoll
TVBP0363	9° 26' 04.28" S	179° 51' 57.84" E	Further most point on reef east of

Point	Latitude	17 Longitude	Point Reference
			Motualama islet in Nukulaelae atoll
TVBP0364	9° 26' 02.25" S	179° 51' 59.60" E	Further most point on reef east of Motualama islet in Nukulaelae atoll
TVBP0365	9° 25' 58.07" S	179° 52' 01.77" E	Further most point on reef south east of Fetuatasi islet in Nukulaelae atoll
TVBP0366	9° 25' 56.18" S	179° 52' 02.56" E	Further most point on reef south east of Fetuatasi islet in Nukulaelae atoll
TVBP0367	9° 25' 52.69" S	179° 52' 03.98" E	Further most point on reef south east of Niuoku island in Nukulaelae atoll
TVBP0368	9° 25' 47.82" S	179° 52' 05.97" E	Further most point on reef south east of Niuoku island in Nukulaelae atoll
TVBP0369	9° 25' 46.12" S	179° 52' 06.66" E	Further most point on reef south east of Niuoku island in Nukulaelae atoll
TVBP0370	9° 25' 42.44" S	179° 52' 07.95" E	Further most point on reef south east of Niuoku island in Nukulaelae atoll
TVBP0371	9° 25' 41.20" S	179° 52' 08.36" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0372	9° 25' 31.36" S	179° 52' 11.07" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0373	9° 25' 19.27" S	179° 52' 13.97" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0374	9° 25' 11.32" S	179° 52' 15.43" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0375	9° 25' 00.52" S	179° 52' 17.17" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0376	9° 24' 53.72" S	179° 52' 18.32" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0377	9° 24' 50.50" S	179° 52' 18.49" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0378	9° 24' 43.15" S	179° 52' 18.85" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0379	9° 24' 32.35" S	179° 52' 18.09" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0380	9° 24' 26.56" S	179° 52' 17.10" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0381	9° 24' 21.73" S	179° 52' 15.93" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0382	9° 24' 20.58" S	179° 52' 15.65" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0383	9° 24' 12.41" S	179° 52' 13.46" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0384	9° 23' 55.18" S	179° 52' 06.84" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0385	9° 23' 29.88" S	179° 51' 54.93" E	Further most point on reef east of Niuoku island in Nukulaelae atoll
TVBP0386	9° 21' 06.19" S	179° 50' 24.61" E	Further most point on reef east of Tumiloto island in Nukulaelae atoll
TVBP0387	9° 21' 00.63" S	179° 50' 21.03" E	Further most point on reef east of Tumiloto island in Nukulaelae atoll
TVBP0388	8° 26' 03.35" S	179° 10' 15.38" E	Further most point on reef east of Mulitefala islet in Funafuti atoll
TVBP0389	7° 56' 56.74" S	178° 25' 10.80" E	Further most point on reef east of Niuatoli islet in Nukufetau atoll

Annex 3

DECLARATION OF TERRITORIAL SEA BASELINES 2012

LN No. 6 of 2012
MADE UNDER SECTION 17(1) (A) OF THE MARITIME ZONES ACT
Commencement [22nd November, 2012]

1 Citation

This Order may be cited as the Declaration of Territorial Sea Baselines 2012.

2 Commencement

This Declaration shall come into force on the date of its publication.

3 Territorial sea baselines

- (1) The points on the baseline from which the breadth of the territorial sea of Tuvalu is measured, described in section 7(1) of the Maritime Zones Act, are specified in the tables in Schedule 1.
- (2) The table in Part 1 specifies the points on the baseline from which the breadth of the territorial sea around Nanumea is measured.
- (3) The table in Part 2 specifies the points on the baseline from which the breadth of the territorial sea around Nanumanga is measured.
- (4) The table in Part 3 specifies the points on the baseline from which the breadth of the territorial sea around Niutao is measured.
- (5) The table in Part 4 specifies the points on the baseline from which the breadth of the territorial sea around Nui is measured.
- (6) The table in Part 5 specifies the points on the baseline from which the breadth of the territorial sea around Vaitupu is measured.
- (7) The table in Part 6 specifies the points on the baseline from which the breadth of the territorial sea around Niulakita is measured.

4 Guide to reading Schedule 1

- (1) In the tables in Schedule 1:
 - (a) lines are generated by reference to points,
 - (b) the first column sets out the point identifier,
 - (c) the second and third columns set out the geographic coordinates for each point and
 - (d) the fourth column sets out the zone(s) measured from the point.
- (2) In the fourth column:
 - (a) TS stands for territorial sea,
 - (b) CZ stands for contiguous zone and
 - (c) EEZ stands for exclusive economic zone and continental shelf.

5 Geodetic framework

In this Declaration, points defined by geographic coordinates are determined by reference to the World Geodetic System 1984 (WGS 84). Points are connected by geodesic lines realised in the WGS 84.

6 Illustrative chart

The chart in Schedule 2 provides a general illustration of the points on the baseline specified in Schedule 1, and the baseline.

SCHEDULE 1- GEOGRAPHICAL COORDINATES

[omitted]

SCHEDULE 2- ILLUSTRATIVE CHART

CHART ILLUSTRATING THE TERRITORIAL SEA BASELINE OF TUVALU

[omitted]

Annex 4**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 5

Tuvalu Archipelagic Baseline Segments

Baseline Segment	Length (nm)	Baseline Segment	Length (nm)
TVBP0330-TVBP0331	0.12	TVBP0360-TVBP0361	0.10
TVBP0331-TVBP0332	0.07	TVBP0361-TVBP0362	0.04
TVBP0332-TVBP0333	0.05	TVBP0362-TVBP0363	0.05
TVBP0333-TVBP0334	0.11	TVBP0363-TVBP0364	0.04
TVBP0334-TVBP0335	0.03	TVBP0364-TVBP0365	0.08
TVBP0335-TVBP0336	0.07	TVBP0365-TVBP0366	0.03
TVBP0336-TVBP0337	0.48	TVBP0366-TVBP0367	0.06
TVBP0337-TVBP0338	1.47	TVBP0367-TVBP0368	0.09
TVBP0338-TVBP0339	0.16	TVBP0368-TVBP0369	0.03
TVBP0339-TVBP0340	0.03	TVBP0369-TVBP0370	0.06
TVBP0340-TVBP0341	0.13	TVBP0370-TVBP0371	0.02
TVBP0341-TVBP0342	5.15	TVBP0371-TVBP0372	0.17
TVBP0342-TVBP0343	0.04	TVBP0372-TVBP0373	0.21
TVBP0343-TVBP0344	0.04	TVBP0373-TVBP0374	0.13
TVBP0344-TVBP0345	0.07	TVBP0374-TVBP0375	0.18
TVBP0345-TVBP0346	0.11	TVBP0375-TVBP0376	0.11
TVBP0346-TVBP0347	58.35	TVBP0376-TVBP0377	0.05
TVBP0347-TVBP0348	65.45	TVBP0377-TVBP0378	0.12
TVBP0348-TVBP0349	0.10	TVBP0378-TVBP0379	0.18
TVBP0349-TVBP0350	0.05	TVBP0379-TVBP0380	0.10
TVBP0350-TVBP0351	0.05	TVBP0380-TVBP0381	0.08
TVBP0351-TVBP0352	0.06	TVBP0381-TVBP0382	0.02
TVBP0352-TVBP0353	0.71	TVBP0382-TVBP0383	0.14
TVBP0353-TVBP0354	0.04	TVBP0383-TVBP0384	0.31
TVBP0354-TVBP0355	0.09	TVBP0384-TVBP0385	0.46
TVBP0355-TVBP0356	0.01	TVBP0385-TVBP0386	2.81
TVBP0356-TVBP0357	0.09	TVBP0386-TVBP0387	0.11
TVBP0357-TVBP0358	0.08	TVBP0387-TVBP0388	67.57
TVBP0358-TVBP0359	0.06	TVBP0388-TVBP0389	53.24
TVBP0359-TVBP0360	0.01	TVBP0389-TVBP0330	2.67