

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

Limits in the Seas

No. 146

Republic of Kiribati:

Archipelagic and other Maritime Claims and Boundaries



LIMITS IN THE SEAS

No. 146

REPUBLIC OF KIRIBATI

ARCHIPELAGIC AND

OTHER MARITIME CLAIMS AND BOUNDARIES

March 5, 2020

**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 from the U.S. Department of State's Office of Ocean and Polar Affairs and the Office of the Legal Advisor.

Introduction

This study analyzes the maritime claims and maritime boundaries of the Republic of Kiribati (Kiribati), including its archipelagic baseline claim.

The Basis for Analysis section summarizes Kiribati's maritime claims and boundaries and discusses the relevant provisions of the international law of the sea. The Analysis section examines these claims and boundaries from a geographic and legal perspective, including for consistency with the international law of the sea. The Conclusion briefly summarizes the results of this study's analysis of Kiribati's maritime claims. Kiribati's maritime zones legislation (2011) is reproduced in Annex 1 of this study and its regulations establishing its archipelagic baselines (2014) are reproduced in Annex 2. Maps 1 to 3 of this study depict the maritime claims and boundaries of Kiribati.

Basis for Analysis

The basis for this study's analysis for Kiribati's maritime claims is the international law of the sea, as reflected in the United Nations Convention on the Law of the Sea (LOS Convention).¹ Kiribati ratified both the LOS Convention and the 1994 Agreement Relating to the Implementation of Part XI of the LOS Convention on February 24, 2003.

Summary of Kiribati Maritime Claims and Boundaries

Kiribati has enacted domestic legislation establishing its maritime zones, including a 12-nautical mile (M) territorial sea, 24-M contiguous zone, and a 200-M exclusive economic zone (EEZ).² This legislation also contains provisions relating to archipelagic baselines, archipelagic waters, and the continental shelf. Kiribati's domestic regulations set forth the geographic coordinates for its archipelagic and other baselines³ and also coordinates describing the outer limits of its territorial sea, contiguous zone, and EEZ.⁴ Kiribati has established its maritime boundaries with the Cook Islands (New Zealand), Marshall Islands, Nauru, New Zealand (Tokelau), Tuvalu, France (French Polynesia) and the United States of America.⁵

Archipelagic Baselines

The LOS Convention contains certain provisions related to archipelagic States. Article 46(a) provides that an "archipelagic State" means "a State constituted wholly by one or more

¹ [United Nations Convention on the Law of the Sea, Montego Bay](#), opened for signature Dec. 10, 1982, entered into force Nov. 16, 1994, 1833 UNTS 397. The United States considers the substantive provisions of the LOS Convention cited in this study to reflect customary international law, as do international courts and tribunals. *See, e.g.*, J.A. Roach, "Today's Customary International Law of the Sea," *Ocean Dev't & Int'l L.*, 45: 239–252 (2014).

² The *Maritime Zones (Declaration) Act, 2011*, which is reproduced in Annex 1 of this study, replaces the *Marine Zones (Declaration) Act 1983*. Texts of both acts are available from the UN Division for Ocean Affairs and the Law of the Sea (DOALOS) at its [website](#) pertaining to Kiribati's maritime claims and boundaries.

³ *Territorial Sea Baselines of Kiribati Regulations 2014*, *Closing Lines Regulations 2014*, and the *Baselines around the Archipelagos of Kiribati Regulations 2014*. Texts of these regulations are available at DOALOS, *supra* note 2.

⁴ *Territorial Sea Outer Limits Regulations 2014*, *Contiguous Zones Outer Limits Regulations 2014*, and *Exclusive Economic Zone Outer Limit Regulations 2014*. Texts of these regulations are available at DOALOS, *supra* note 2.

⁵ *See infra*, notes 1516–22 and corresponding text.

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” (Article 46(b)).

Only an “archipelagic State” may draw archipelagic baselines. Article 47 sets out criteria to which archipelagic States must adhere when establishing archipelagic baselines (Annex 4 of 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 M except that up to 3 percent of the total number of baselines may have a length up to 125 M (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) to 47(5)).

Article 48 provides that the breadth of the territorial sea, contiguous zone, EEZ, and continental shelf shall be measured from archipelagic baselines drawn in accordance with Article 47. Article 49 provides that the waters enclosed by archipelagic baselines drawn in accordance with Article 47 are “archipelagic waters,” over which the sovereignty of an archipelagic State extends, subject to the provisions in Part IV of the LOS Convention.

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.” Since most atolls possess one or more channels through the reefs, it appears that coastal States are permitted to draw closing lines across such channels or other openings in the reef.⁶

⁶ DOALOS, *Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of*

Analysis

The Republic of Kiribati is an archipelagic State located in the Pacific Ocean consisting of 33 geographically disbursed coral atolls straddling the Equator. Kiribati includes three island groups—Gilbert Group, Phoenix Group, and Line Group—dispersed over about 3.5 million square kilometers (Map 1 of this study).⁷ The atoll of Tarawa, within the Gilbert Group, is the capital of Kiribati and is located roughly halfway between Hawaii and Australia. The total land area of Kiribati is 811 square kilometers.⁸

Baselines

Section 4 of *Kiribati's Maritime Zones (Declaration) Act 2011 (Act of 2011)* provides for the use of baselines, which are to be prescribed by the Minister. In 2014, Kiribati's Minister of Fisheries, and Marine Resources Development issued regulations pertaining to archipelagic baselines, territorial sea baselines, and closing lines.⁹

Archipelagic Baselines

Kiribati's *Baselines around the Archipelagos of Kiribati Regulations 2014 (Archipelagic Baselines Regulations)* establish an archipelagic baseline system composed of two island archipelagoes within the Gilbert Islands. The archipelagic baseline systems are a combination of the normal baseline (low-water line) and straight archipelagic baseline segments. Archipelago 1 is composed of 58 baseline points and 10 baseline segments enclosing the atolls and islands of Makin, Butaritari, Marakei, Abaiang, Tarawa, Maiana, Kuria, Abemama and Aranuka. Archipelago 2 is composed of 55 baseline points and 4 baseline segments enclosing Nonouti, Tabiteuea, Beru and Onotoa. The baseline segments for Archipelago 1 range in length from 12.5 M to 86.1 M, for a total length of 428.1 M. The baseline segments for Archipelago 2 range in length from 39.8 M to 99.2 M, for a total length of 237.8 M. Map 2 depicts the two archipelagic baseline systems.

The archipelagic baseline systems of both Archipelago 1 and Archipelago 2 meet the water-to-land area ratio set forth in Article 47(1):

Archipelago 1

Total Area = 18,191 square kilometers
Water Area = 16,320 square kilometers
Land Area = 1,871 square kilometers¹⁰
Water-to-land area ratio = 8.72:1

the Sea, at 10–12 (1989) (noting that “it may be inferred [from Article 6] that the enclosed waters [within a lagoon] can be regarded as internal waters” and that “[i]f the lagoon waters of atolls are to be considered as internal waters, it follows that it will be necessary to construct closing lines across the entrance channels.”).

⁷ CIA World Factbook, Australia – Oceania: Kiribati, at [CIA website](#).

⁸ *Id.*

⁹ See *supra*, note 3 and corresponding text.

¹⁰ Land area calculation includes waters within the fringing reefs of islands and atolls, per Article 47(7) of the Convention.

Archipelago 2

Total Area = 12,739 square kilometers

Water Area = 11,394 square kilometers

Land Area = 1,345 square kilometers¹¹

Water-to-land area ratio = 8.47:1

In accordance with Article 47(2) of the LOS Convention, none of the baseline segments exceed 100 M in length. Annex 3 of 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 archipelagos (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)).

Accordingly, both of Kiribati's archipelagic baseline systems set forth in its *Archipelagic Baselines Regulations* appear to be consistent with Article 47 of the LOS Convention.

Normal Baseline / Reefs

For the 20 islands not included within its archipelagic baselines, Kiribati's *Territorial Sea Baselines of Kiribati Regulations 2014 (Territorial Sea Baselines Regulations)* set forth geographic coordinates for baseline points. These regulations include baseline points for islands within the Gilbert Group (Banaba and the Gilbert Islands of Nikunau, Tamana, and Arorae), the Phoenix Group (Nikumaroro, McKean, Kanton, Enderbury, Birnie, Rawaki, Manra, and Orona), and the Line Group (Teraina [Washington], Tabuaeran [Fanning], Kiritimati [Christmas], Malden, Starbuck, Vostok, Caroline, and Flint).

Neither Kiribati's *Territorial Sea Baselines Regulations* nor the *Act of 2011* refer to the normal baseline or reefs, which are addressed in Articles 5 and 6 of the LOS Convention. However, the geographic coordinates set forth in the *Territorial Sea Baselines Regulations* appear to be normal baseline points located on the low-water line along the coast (Convention, Article 5) or on the seaward low-water line of a reef (Convention, Article 6). As indicated in the *Territorial Sea Baselines Regulations*, each baseline point listed is used to measure the outer limit of the territorial sea and, in some cases, the contiguous zone or the EEZ.

Kiribati's normal baseline is not shown on the maps accompanying this study, although they are shown in the illustrative charts found in Schedule 4 of the *Territorial Sea Baselines Regulations*.

Closing Lines / Reefs

Kiribati's *Closing Lines Regulations 2014* set forth geographic coordinates for twenty-one closing lines for islands (including those situated on atolls) within the Gilbert Group (Butaritari, Marakei, Tarawa, Maiana, Abemama, Aranuka, Nonouti, Tabiteuea and Onotoa), the Phoenix Group (Kanton), and the Line Group (Tabuaeran [Fanning], Kiritimati [Christmas]). These closing lines

¹¹ *Id.*

are reef closing lines that enclose the waters within the lagoons as internal waters. Such closing lines appear to be permitted by the LOS Convention.¹²

Kiribati's closing lines are not shown on the maps accompanying this study, although they are shown in the illustrative charts found in Schedule 4 of the *Closing Lines Regulations 2014*.

Maritime Zones

Sections 5 and 7 of the *Act of 2011* provide that the archipelagic waters of Kiribati comprise those waters enclosed by the archipelagic baselines, and the internal waters of Kiribati comprise those waters on the landward side of the normal baseline, including any closing lines. Sections 6, 8, and 9 of the *Act of 2011* establish Kiribati's 12-M territorial sea, 24-M contiguous zone, and 200-M EEZ, respectively. Consistent with the relevant provisions of the LOS Convention, the breadths of these maritime zones are measured from the baselines of Kiribati.

Consistent with Article 76 of the LOS Convention, Section 10 of the *Act of 2011* provides that the continental shelf of Kiribati extends to the outer edge of the continental margin, or to a distance of 200 M from the baseline where the outer edge of the continental margin does not extend up to that distance. On December 24, 2012, Kiribati submitted to the Commission on the Limits of the Continental Shelf information on the limits of its continental shelf beyond 200 M.¹³ The Submission concerns the outer limits of the continental shelf of Kiribati to the north and east of its Line Group (Map 3 of this study). As of January 2020, the Commission had not yet issued recommendations pertaining to the submission of Kiribati.

In 2014, Kiribati established regulations setting forth the geographic coordinates describing the outer limits of its territorial sea, contiguous zone, and EEZ.¹⁴ The regulations delineate the outer limits of these maritime zones by geodesic lines utilizing arc densification points. Except where maritime boundaries with neighboring States form the outer limits, the arc densification point spacing is approximately 0.21 M, 0.31 M, and 0.87 M along the territorial sea, contiguous zone, and EEZ limit lines, respectively.

Navigation

Sections 6 and 7 of Kiribati's *Act of 2011* recognize certain navigational rights within the maritime zones of Kiribati, including the right of archipelagic sea lanes passage through archipelagic waters and the right of innocent passage through archipelagic waters and the territorial sea. With respect to archipelagic sea lanes passage, Section 12 provides that Kiribati may designate sea lanes and air routes for use by foreign ships or aircraft, and also that it may prescribe traffic separation schemes in such sea lanes.

An archipelagic State may designate such sea lanes, as well as traffic separation schemes, provided that "an archipelagic State shall refer [such] proposals to the competent international organization with a view to their adoption" (LOS Convention, Article 53, paragraphs 1 and 9). As the competent

¹² See *supra*, note 6.

¹³ The Executive Summary and Notification is available from DOALOS, at its CLCS [website](#).

¹⁴ See *supra*, note 4.

international organization, the International Maritime Organization may “adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe, or substitute them (Article 53(9)).

As of January 2020, it appears that Kiribati 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 12(3) of the *Act of 2011* 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.”

Contiguous Zone, EEZ, and Continental Shelf Jurisdiction

Sections 8(2) and 11 of the *Act of 2011* describe Kiribati’s rights and jurisdiction in the contiguous zone, EEZ, and continental shelf. These provisions are generally consistent with the relevant provisions of the LOS Convention.

The Act does not address the rights of other States in Kiribati’s maritime zones. Article 58(2) of the LOS Convention provides 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.” 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 Convention, in particular Article 79.

Maritime Boundaries

Kiribati has established maritime boundaries with the Cook Islands (New Zealand), Marshall Islands, Nauru, New Zealand (Tokelau), Tuvalu, France (French Polynesia) and the United States. There is a tripoint agreement among Kiribati, Marshall Islands and Nauru.¹⁵ It appears that Kiribati has concluded maritime boundary agreements with all of its neighbors. The maritime boundaries of Kiribati are shown on Map 1 of this study.

Kiribati’s maritime boundary agreement with the Cook Islands (New Zealand), concluded in 2012, establishes an EEZ and continental shelf boundary on the basis of equidistance that is composed of geodesic lines connecting 14 points.¹⁶ The boundary separates the maritime zones generated by Starbuck, Vostok, and Flint in Kiribati’s Line Group and Penrhyn in the Cook Islands.

Kiribati’s maritime boundary agreement with the Marshall Islands, concluded in 2012, establishes an EEZ and continental shelf boundary on the basis of equidistance that is composed of geodesic

¹⁵ Agreement between the Republic of Kiribati, the Republic of the Marshall Islands and the Republic of Nauru concerning Determination of the Tri-junction Point between the Three Countries, August 29, 2012 (not in force), VII *International Maritime Boundaries* 4925–4934 (2016).

¹⁶ Agreement between the Government of the Cook Islands and the Government of the Republic of Kiribati concerning the Delimitation of Maritime Boundaries between the Cook Islands and the Republic of Kiribati, August 29, 2012 (entered into force January 17, 2014), VII *International Maritime Boundaries* 4847–4857 (2016).

lines connecting 24 points.¹⁷ The boundary separates the maritime zones generated by Banaba, Makin, and Butaritari in Kiribati's Gilbert Group and Ebon and Knox (Nadikdik) of the Marshall Islands.

Kiribati's maritime boundary agreement with Nauru, concluded in 2012, establishes an EEZ and continental shelf boundary on the basis of equidistance that is composed of geodesic lines connecting 16 points.¹⁸ The boundary separates the maritime zones generated by Banaba in the Kiribati's Gilbert Group and Nauru island.

Kiribati's maritime boundary agreement with New Zealand for Tokelau, concluded in 2012, establishes an EEZ and continental shelf boundary on the basis of equidistance that is composed of geodesic lines connecting five points.¹⁹ The boundary separates the maritime zones generated by three islands in Kiribati's Phoenix Group (Nikumaroro, Manra, and Orona) and the Tokelau islands of Atafu and Fakaofu.

Kiribati's maritime boundary agreement with Tuvalu, concluded in 2012, establishes an EEZ and continental shelf boundary on the basis of equidistance.²⁰ The boundary is composed of 20 points connected by geodesic lines. The boundary separates the maritime zones generated by the Kiribati islands of Tabiteuea, Tamana, and Arorae and the Tuvalu islands of Nanumea and Niutao.

Kiribati's maritime boundary agreement with France for French Polynesia, concluded in 2012, establishes an EEZ boundary on the basis of equidistance.²¹ The boundary is composed of six points connected by geodesic lines. The boundary separates the EEZ generated by the Kiribati islands of Flint and Caroline in its Line Group and the French Polynesia islands of Motu One, Tupai, Mataiva, and Ahe.

Kiribati's maritime boundary agreement with the United States, concluded in 2012, establishes three EEZ and continental shelf boundaries on the basis of equidistance.²² For the boundary line between Baker Island (U.S.) and Kiribati's Phoenix Group, six points are connected by geodesic lines. For the boundary line between Jarvis Island (U.S.) and Kiribati's Line Group, ten points are connected by geodesic lines. For the boundary line between the U.S. islands of Palmyra Atoll and Kingman Reef and Kiribati's Line Group, five points are connected by geodesic lines.

¹⁷ Agreement between the Republic of Kiribati and the Republic of the Marshall Islands concerning Maritime Boundaries, August 29, 2012 (not in force), VII *International Maritime Boundaries* 4869–4880 (2016).

¹⁸ Agreement between the Republic of Kiribati and the Republic of Nauru concerning Maritime Boundaries, August 29, 2012 (not in force), VII *International Maritime Boundaries* 4881–4891 (2016).

¹⁹ Agreement between the Government of New Zealand and the Government of the Republic of Kiribati concerning the Delimitation of the Maritime Boundaries between Tokelau and Kiribati, August 29, 2012 (entered into force May 15, 2015), VII *International Maritime Boundaries* 4893–4901 (2016).

²⁰ Agreement between Tuvalu and Kiribati concerning their Maritime Boundary, August 29, 2012 (not in force), *LOS Bulletin*, No. 83, p. 37 (2014), VII *International Maritime Boundaries* 4903–4913 (2016).

²¹ Agreement between the Government of the French Republic and the Government of the Republic of Kiribati concerning the delimitation of a boundary line between the exclusive economic zone around French Polynesia and the exclusive economic zone of the Republic of Kiribati, December 18, 2002 (entered into force December 18, 2002), *International Maritime Boundaries* 1-10 (2017, Report No. 5-44).

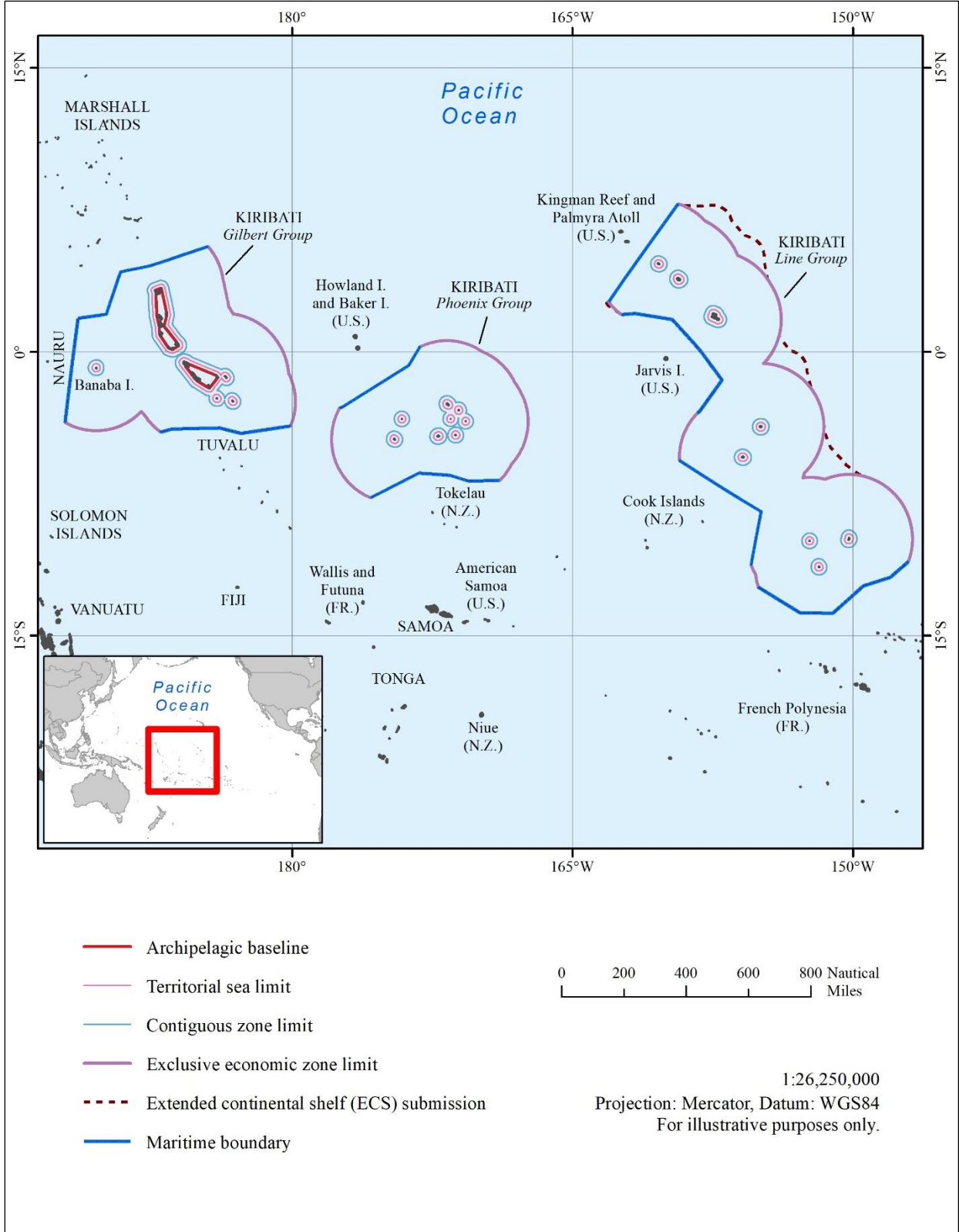
²² Treaty between the Government of the United States of America and the Government of the Republic of Kiribati on the Delimitation of Maritime Boundaries, September 6, 2013 (entered into force July 19, 2019), Sen. Treaty Doc. 114-13 (submitted to the Senate December 9, 2016), VII *International Maritime Boundaries* 4935–4945 (2016).

Conclusion

Kiribati's archipelagic baseline systems enclosing two archipelagos in its Gilbert Group appear to be consistent with the LOS Convention (Article 47), as does Kiribati's use of the normal baseline and reef closing lines (Articles 5 and 6). The provisions of Kiribati'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.

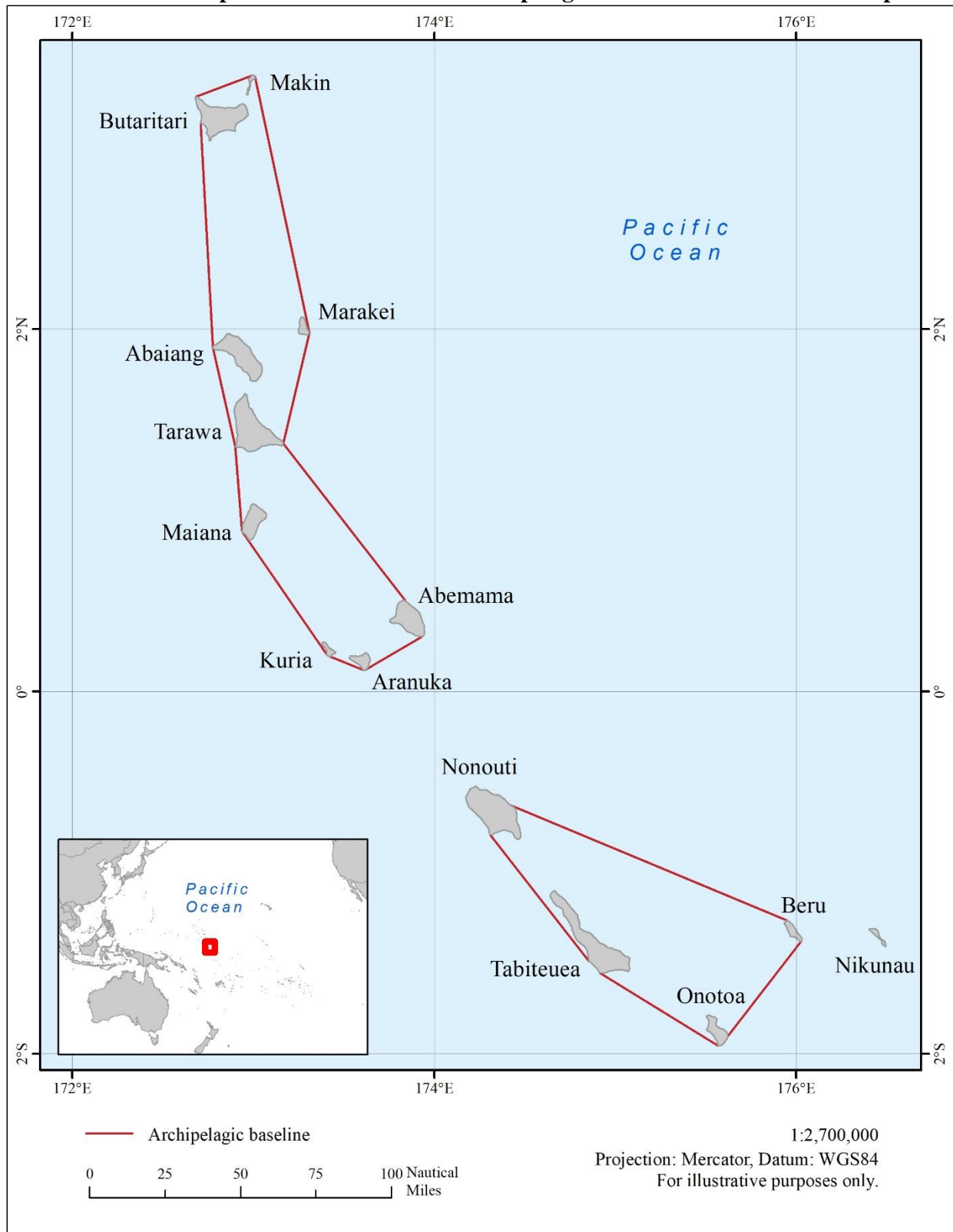
Map 1

Illustrative Map of Kiribati's Claimed Maritime Limits and Boundaries



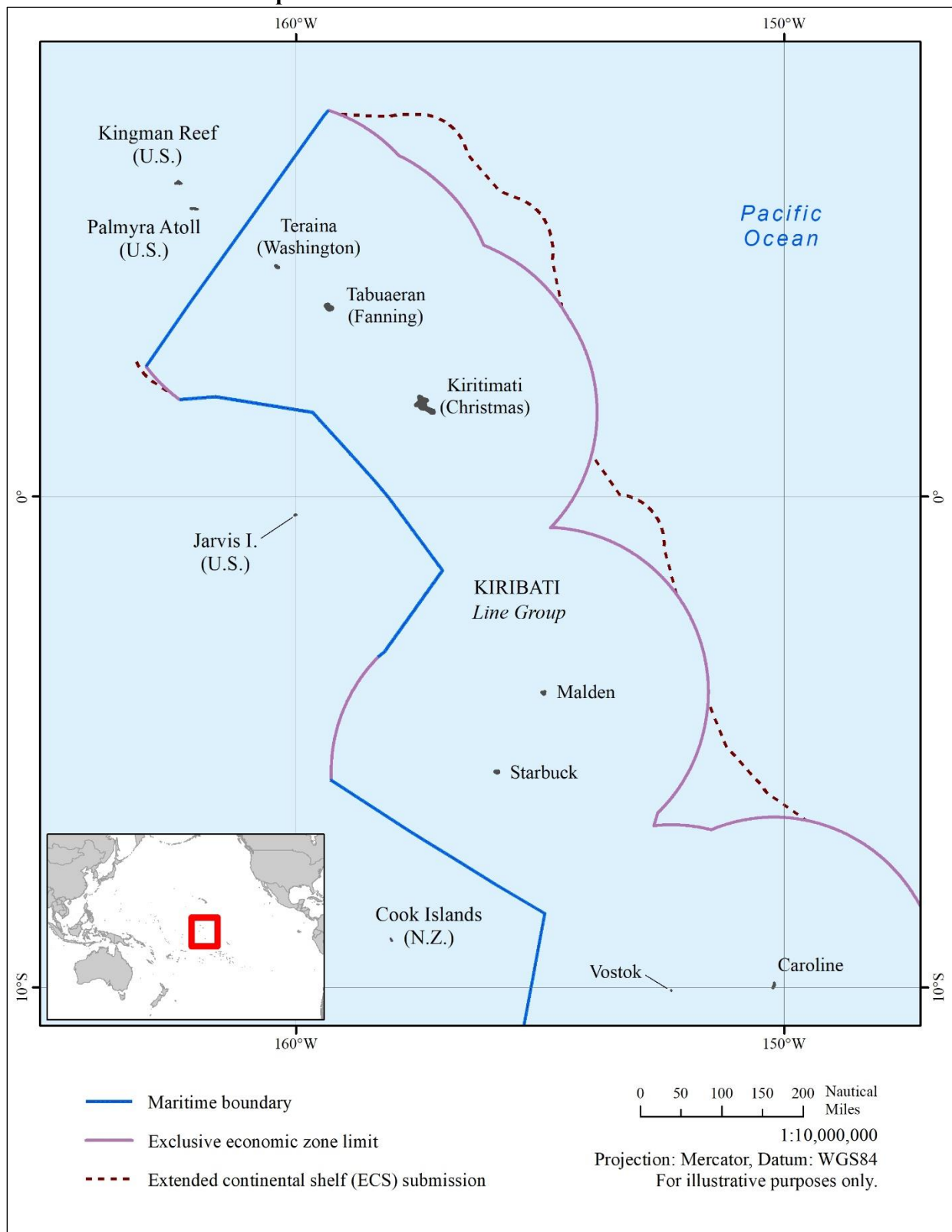
Map 2

Illustrative Map of Kiribati's Claimed Archipelagic Baselines in its Gilbert Group



Map 3

Illustrative Map of Kiribati's Extended Continental Shelf Submission



Annex 1

Marine Zones (Declaration) Act 2011

REPUBLIC OF KIRIBATI

(No. 4 of 2011)

I assent,

Beretitenti

Assented: 5 September 2011

An Act to make provisions in respect of the internal waters, the archipelagic waters, the contiguous zone, the territorial sea, the exclusive economic zone, and the continental shelf of Kiribati and for connected purposes

Commencement:

2011

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

PART I - PRELIMINARY

1. Short title

(1) This Act may be cited as the Marine Zones (Declaration) Act 2011.

2. Interpretation

(1) In this Act, unless the context otherwise requires-

“archipelagic waters” means the archipelagic waters of Kiribati as defined in section 7 of this Act;

“baseline of Kiribati” means the baseline prescribed under section 4 of this Act;

“conservation and management” includes all rules, regulations, methods and measures that –

- (a) are required to build, restore or maintain, or are useful in rebuilding, restoring or maintaining, any fishery resource or the marine environment; or
- (b) are designated to ensure that -
 - (i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis; and
 - (ii) irreversible or long-term ill-effects on fishery resources or the marine environment are avoided; and
 - (iii) there will be a multiplicity of options available with respect to future uses of these resources;

“contiguous zone” means the contiguous zone as defined under section 8 of this Act.

“fishery resource” means any fishery, stock of fish, species of fish or habitat of fish;

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

“prescribed” means prescribed by regulations made under this Act;

- (2) For the purposes of this Act, permanent harbor works that form an integral part of a harbor system shall be treated as forming part of the coast.

3. References to International Law

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

PART II - THE MARINE ZONES

4. Baseline of Kiribati

- (1) The Minister shall prescribe the baseline of Kiribati, from which the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Kiribati shall be measured.
- (2) For the purposes of subsection (1), the Minister may prescribe archipelagic baseline which shall form part of the baseline of Kiribati.

5. Internal Waters of Kiribati

- (1) Subject to section 4, the internal waters of Kiribati comprise all waters on the landward side of the baseline of Kiribati or any closing lines to the extent that those closing lines are outside the baseline of Kiribati.

6. Territorial Sea

- (1) The territorial sea of Kiribati comprises those waters having, as their inner limits, the baseline of Kiribati and, as their outer limits, a line measured seaward from that baseline, every point of which is at a distance of twelve (12) nautical miles from the nearest point of the baseline.
- (2) Subject to subsection (3), Kiribati has sovereignty beyond its land territory and internal waters over the territorial sea, and to the airspace above and the seabed and subsoil beneath the territorial sea.
- (3) Ships of all States shall enjoy the right of innocent passage in accordance with international law in the territorial sea of Kiribati.

7. Archipelagic Waters

- (1) The Archipelagic waters of Kiribati comprise all areas of seas contained within the archipelagic baseline established under section 4(2).
- (2) Subject to subsection (3), any law in force in Kiribati, including the common law, shall apply in its archipelagic waters, regardless of their depth or distance from the coast.

- (3) Ships of all States shall enjoy the right of innocent passage in accordance with international law in the archipelagic waters of Kiribati.
- (4) Ships of all States shall enjoy archipelagic sea lanes passage in the archipelagic waters of Kiribati in any sea lanes and air routes there-above that have been designated under section 9.

8. Contiguous Zone

- (1) The waters beyond the territorial sea referred to in section 6, but within the distance of twenty-four (24) nautical miles from the baseline of Kiribati, shall be the contiguous zone of the Republic of Kiribati.
- (2) Within the contiguous zone and the airspace above it, Kiribati shall have the right to exercise all the powers which may be considered necessary to prevent contraventions of any fiscal law or any customs, sanitary, immigration laws.

9. Exclusive Economic Zone

- (1) Subject to subsection (2), the waters beyond the territorial sea of Kiribati, but within a distance of two hundred (200) nautical miles from the baseline of Kiribati, shall be the exclusive economic zone of the Republic of Kiribati.
- (2) Where an agreement is in force between the Republic of Kiribati and an opposite or adjacent coastal State provides for the delimitation of an exclusive economic zone boundary, the relevant area of exclusive economic zone shall be delimited in accordance with such agreement.

10. Continental Shelf

- (1) Subject to subsection (2), the continental shelf of the Republic of Kiribati comprises the seabed and subsoil of the submarine areas that extend beyond the limit of the territorial sea throughout the natural prolongation of the land territorial of the Republic of Kiribati:
 - (a) to the outer edge of the continental margin; or,
 - (b) to a distance of two hundred (200) nautical miles from the baseline where the outer edge of the continental margin does not extend up to that distance.
- (2) Where an agreement is in force between the Republic of Kiribati and an opposite or adjacent coastal State providing for the delimitation of a continental shelf boundary, the relevant area of continental shelf of the Republic of Kiribati shall be delimited in accordance with such agreement.

11. Exercise of Sovereign Rights

- (1) Subject to subsection (2), within the exclusive economic zone and continental shelf the Republic of Kiribati exercises:
 - (a) sovereign rights for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil and the waters over the seabed, and with regard to other activities for the economic exploration and exploitation of the

exclusive economic zone, such as the production of energy from the water, currents and winds;

- (b) jurisdiction with regard to:
 - (i) the establishment and use of artificial island, installations and structures;
 - (ii) marine scientific research; and
 - (iii) the protection and preservation of the marine environment;
 - (c) such other rights and duties provided for under the international law.
- (2) In any area where the continental shelf extends beyond two hundred (200) nautical miles from the baseline of Kiribati, the Republic of Kiribati exercises:
- (a) sovereign rights for the purpose of exploring, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil;
 - (b) jurisdiction with regard to:
 - (i) the establishment and use of artificial islands, installations and structures;
 - (ii) the regulation of drilling on the continental shelf for all purposes; and
 - (iii) prevention, reduction and control of pollution from pipelines.

12. Designation of Sea Lanes and Air Routes

- (1) The Minister may by order designate sea lanes and air routes, including archipelagic sea lanes and air routes, suitable for the continuous and expeditious passage of foreign ships and aircraft, through and over the archipelagic waters and territorial sea of the Republic of Kiribati, and may also prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sea lanes.
- (2) In sea lanes and air routes designated under subsection (1) all ships and aircraft may enjoy the right of navigation and over-flight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic waters and territorial sea, from one part of the exclusive economic zone of the Republic of Kiribati to another part of it.

(3) Until the sea lanes, and air routes are prescribed under subsection (1) , 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.

13. Due Publicity

The Minister may cause to be publicized materials, including where appropriate, lists of coordinates, charts, maps, diagrams and databases, for the purpose of depicting the baseline of

Kiribati and any other matters relating to the limits of the territorial sea, contiguous zone, exclusive economic zone and continental shelf of Kiribati.

PART III - REGULATIONS, REPEAL AND SAVINGS

14. General Regulations are to the Exclusive Economic Zone

Where no other provisions is made in or under any other Act for the purpose, the Minister may make regulations, in accordance with the rules of international law, for all or any of the following purposes:-

- (a) prescribing the marine zones under this Act; and
- (b) regulating the conduct of scientific research within the exclusive economic zone; and
- (c) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from waters, currents and winds, and for other economic purposes; and
- (d) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone, including requirements of the establishment of safety zones around islands, installations and structures; and
- (e) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone; and
- (f) providing for such other as are necessary or expedient to give effect to the rights and obligations of the Republic of Kiribati in relation to the exclusive economic zone, or are necessary to give full effect to the provisions of this Act.

15. Repeal and Savings

- (1) The Marine Zones (Declaration) Act 1983 and any subsidiary legislation made thereunder are repealed.
- (2) Any subsidiary legislation repealed by subsection (1) that could be made under this Act continues in force as if made under this Act until amended, replaced or repealed under this Act, unless and to the extent that-
 - (a) the matter is provided for in this Act; and
 - (b) the subsidiary legislation is inconsistent with the provisions of this Act or any other Act.

MARINE ZONES (DECLARATION) ACT 2011 EXPLANATORY MEMORANDUM

This Act replaces the Marine Zones (Declaration) Act 1983 which lacks sufficient provision upon the establishment of the maritime zones of Kiribati, with implications for the management for the ocean space of Kiribati. It requires update to enable the proper establishment of the maritime zones and to ensure that Kiribati's rights and obligations concerning these maritime zones under the United Nations Convention on the Law of the Sea (UNCLOS) are reflected in

the Act. In essence the intent is still the same as the 1983 Act except for a few new insertions and some adjustments to the old sections.

The Act consists of three Parts in which Part I provides for the Short Title, Interpretation and the Reference to International Law.

Section 2 (Interpretation) provides for the definitions of terms under the Act. The definitions of the baseline of Kiribati, the low-tide elevation, the low-water line, and the median line are repealed. The new definitions for archipelagic waters, the baseline of Kiribati, contiguous zone, and prescribed are incorporated under the Interpretation.

Section 3 (Reference to the International Law) is simplified for clarity. The phrases “by the Republic of Kiribati or by the Cabinet or a Minister,” are deleted.

Part II consists of 13 sections elaborating on the definitions of the marine zones the exercise of sovereign rights, designation of sealanes and air routes, and due publicity.

New definitions are inserted under this Part as sections 4, (Baseline of Kiribati), 8 (Contiguous zone), and 10 (Continental Shelf). The rest of the sections i.e. section 5 (Internal waters of Kiribati), 6 (Territorial Sea), 7 (Archipelagic waters), 9 (Exclusive Economic Zone), 11 (Exercise of Sovereign rights), 11 (Designation of Sealanes and Air Routes), and 13 (Due Publicity) remained as they were but had been slightly amended/re-phrased for simplicity.

Part III is now inserted as a final part which covers 2 sections. Section 14 specifies the Minister’s power to make regulations for the purposes of carrying into effect this Act which was originally addressed under Part II of the 1983 Act. Section 15 provides for provisions on the repeal and savings from the old Act to this 2011 Act.

Titabu Tabane
Attorney-General
1 July 2011

Annex 2

Archipelagic Baselines of Kiribati

BASELINES AROUND THE ARCHIPELAGOS OF KIRIBATI REGULATIONS 2014

In exercise of the powers conferred by Section 14 of the Marine Zones (Declaration) Act 2011, the Minister of Fisheries, and Marine Resources Development hereby makes the following Regulations:-

PART I PRELIMINARY

1 Citation

These Regulations may be cited as the Baselines around the Archipelagos of Kiribati Regulations 2014.

2 Interpretation

‘Baseline’ means the baseline from which the breadth of the territorial sea, contiguous zone, exclusive economic zone and continental shelf is measured.

“Archipelago” means 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.

PART II ARCHIPELAGIC BASELINES

3 Baselines around the archipelagos of Kiribati

- (1) The baselines for the archipelagos of Kiribati are determined by reference to points specified in the tables in Schedule 1 and the archipelagic baselines specified in Schedule 2.
- (2) The table in Part 1 of Schedule 1 specifies the points on the baseline of the archipelago comprising Makin, Butaritari, Marakei, Abaiang, Tarawa, Maiana, Kuria, Abemama and Aranuka in the Gilbert Group.
- (3) The table in Part 2 of Schedule 1 specifies the points on the baseline of the archipelago comprising Nonouti, Tabiteuea, Beru and Onotoa in the Gilbert Group.
- (4) The table in Part 1 of Schedule 2 specifies the archipelagic baselines for the archipelago comprising Makin, Butaritari, Marakei, Abaiang, Tarawa, Maiana, Kuria, Abemama and Aranuka in the Gilbert Group.
- (5) The table in Part 2 of Schedule 2 specifies the archipelagic baselines for the archipelago comprising Nonouti, Tabiteuea, Bern and Onotoa in the Gilbert Group.

4 Guide to reading Schedule 1

- (1) In the tables in Schedule 1:

- (a) the first column sets out the point identifier,
- (b) the second and third columns set out the geographic coordinates for each point, and
- (c) the fourth column sets out the zone(s) measured from the point and indicates whether the point constitutes part of an archipelagic baseline.

(2) In the fourth column:

- (a) TS stands for territorial sea,
- (b) CZ stands for contiguous zone,
- (c) EEZ stands for exclusive economic zone and continental shelf, and
- (d) AB stands for endpoint of an archipelagic baseline.

PART III GEOGRAPHIC COORDINATES POINTS

5 Geodetic framework

In these Regulations, points defined by geographic coordinates are determined by reference to the World Geodetic System 1984 (WGS 84).

6 Illustrative chart

The chart in Schedule 3 provides a general illustration of the points on the baselines specified in Schedule 1, and the baselines, including the baselines specified in Schedule 2.

SCHEDULE 1 - GEOGRAPHIC COORDINATES

Part 1 - Makin, Butaritari, Marakei, Abaiang, Tarawa, Maiana, Kuria, Abemama and Aranuka in the Gilbert Group.

| Point Identifier | Latitude | Longitude | Point Reference |
|-------------------------|-----------------|------------------|------------------------|
| KIGA1BP0001 | 3°23'29.56" N | 173°00'40.08" E | AB,TS,CZ,EEZ |
| KIGA1BP0006 | 3°23'51.53" N | 172°59'35.27" E | AB,TS,CZ,EEZ |
| KIGA1BP0007 | 3°16'50.94" N | 172°41'00.37" E | AB,TS,CZ,EEZ |
| KIGA1BP0019 | 3°08'11.82" N | 172°42'38.27" E | AB,TS,CZ |
| KIGA1BP0020 | 1°53'55.95" N | 172°46'41.94" E | AB,TS,CZ |
| KIGA1BP0022 | 1°53'45.31" N | 172°46'43.40" E | AB,TS,CZ |
| KIGA1BP0023 | 1°21'04.89" N | 172°54'08.86" E | AB,TS,CZ |
| KIGA1BP0024 | 0°53'07.44" N | 172°56'19.85" E | AB,TS,CZ |
| KIGA1BP0026 | 0°52'52.55" N | 172°56'23.67" E | AB,TS,CZ |
| KIGA1BP0027 | 0°12'07.65" N | 173°24'24.44" E | AB,TS,CZ |
| KIGA1BP0032 | 0°11'37.26" N | 173°25'09.09" E | AB,TS,CZ |
| KIGA1BP0033 | 0°06'55.48" N | 173°36'42.65" E | AB,TS,CZ |
| KIGA1BP0037 | 0°07'02.52" N | 173°37'10.22" E | AB,TS,CZ |
| KIGA1BP0038 | 0°18'10.78" N | 173°56'07.32" E | AB,TS,CZ |
| KIGA1BP0054 | 0°30'00.14" N | 173°50'25.04" E | AB,TS |

| | | | |
|-------------|---------------|-----------------|--------------|
| KIGA1BP0055 | 1°22'03.89" N | 173°10'01.82" E | AB,TS |
| KIGA1BP0056 | 1°58'36.04" N | 173°18'36.51" E | AB,TS,CZ |
| KIGA1BP0058 | 1°58'51.51" N | 173°18'36.97" E | AB,TS,CZ,EEZ |

[Note: normal baseline points not used for archipelagic baseline segments are omitted here and can be found in the *Regulations*, at DOALOS, *supra* note 2.]

Part 2 - Nonouti, Tabiteuea, Beru and Onotoa in the Gilbert Group.

| Point Identifier | Latitude | Longitude | Point Reference |
|------------------|---------------|-----------------|-----------------|
| KIGA2BP0001 | 0°47'29.47" S | 174°18'37.81" E | AB,TS,CZ |
| KIGA2BP0002 | 1°29'19.17" S | 174°51'14.21" E | AB,TS,CZ,EEZ |
| KIGA2BP0005 | 1°33'19.30" S | 174°55'00.26" E | AB,TS,CZ,EEZ |
| KIGA2BP0006 | 1°57'19.43" S | 175°34'06.77" E | AB,TS,CZ |
| KIGA2BP0021 | 1°54'12.15" S | 175°37'16.54" E | AB,TS |
| KIGA2BP0022 | 1°22'39.18" S | 176°01'42.56" E | AB,TS |
| KIGA2BP0034 | 1°15'52.18" S | 175°57'01.59" E | AB,TS,CZ |
| IGGA2BP0035 | 0°37'47.99" S | 174°25'31.33" E | AB,TS,CZ |

[Note: normal baseline points not used for archipelagic baseline segments are omitted here and can be found in the *Regulations*, at DOALOS, *supra* note 2.]

SCHEDULE 2 - ARCHIPELAGIC BASELINES

Part 1 - Makin, Butaritari, Marakei, Abaiang, Tarawa, Maiana, Kuria, Abemama and Aranuka in the Gilbert Group.

Geodesic lines joining the following points in the table:

| | | | |
|------|-------------|----|-------------|
| From | KIGA1BP0006 | to | KIGA1BP0007 |
| From | KIGA1BP0019 | to | KIGA1BP0020 |
| From | KIGA1BP0022 | to | KIGA1BP0023 |
| From | KIGA1BP0023 | to | KIGA1BP0024 |
| From | KIGA1BP0026 | to | KIGA1BP0027 |
| From | KIGA1BP0032 | to | KIGA1BP0033 |
| From | KIGA1BP0037 | to | KIGA1BP0038 |
| From | KIGA1BP0054 | to | KIGA1BP0055 |
| From | KIGA1BP0055 | to | KIGA1BP0056 |
| From | KIGA1BP0058 | to | KIGA1B0001 |

Part 2 - Nonouti, Tabiteuea, Beru and Onotoa in the Gilbert Group.

Geodesic lines joining the following points in the table:

| | | | |
|------|-------------|----|-------------|
| From | KIGA2BP0001 | To | KIGA2BP0002 |
| From | KIGA2BP0005 | To | KIGA2BP0006 |
| From | KIGA2BP0021 | To | KIGA2BP0022 |
| From | KIGA2BP0034 | To | KIGA2BP0035 |

Annex 3

Kiribati Archipelagic Baseline Segment Lengths

| Archipelago 1 | | |
|---------------|-------------|------------|
| From Point | To Point | Length (M) |
| KIGA1BP0006 | KIGA1BP0007 | 19.8 |
| KIGA1BP0019 | KIGA1BP0020 | 74.0 |
| KIGA1BP0022 | KIGA1BP0023 | 33.4 |
| KIGA1BP0023 | KIGA1BP0024 | 27.9 |
| KIGA1BP0026 | KIGA1BP0027 | 49.3 |
| KIGA1BP0032 | KIGA1BP0033 | 12.5 |
| KIGA1BP0037 | KIGA1BP0038 | 22.0 |
| KIGA1BP0054 | KIGA1BP0055 | 65.7 |
| KIGA1BP0055 | KIGA1BP0056 | 37.4 |
| KIGA1BP0058 | KIGA1BP0001 | 86.1 |

| Archipelago 2 | | |
|---------------|-------------|------------|
| From Point | To Point | Length (M) |
| KIGA2BP0001 | KIGA2BP0002 | 52.9 |
| KIGA2BP0005 | KIGA2BP0006 | 45.9 |
| KIGA2BP0021 | KIGA2BP0022 | 39.8 |
| KIGA2BP0034 | KIGA2BP0035 | 99.2 |

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.