



PACIFIC ISLANDS FORUM

CONTRIBUTION TO THE REPORT OF THE SECRETARY-GENERAL ON “OCEANS AND THE LAW OF THE SEA” PURSUANT TO RESOLUTION 76/72 OF 9 DECEMBER 2021

1.0. Introduction

The Pacific Islands Forum (PIF) Secretariat, in collaboration with the Office of the Pacific Ocean Commissioner (OPOC), hereby submits this contribution to the Report of the United Nation’s Secretary-General on “oceans and the law of the sea” pursuant to paragraph 371 of the General Assembly resolution 76/72 of 9 December 2021.

2.0. Activities including adoption of measures, development of programmes, that have been undertaken or are ongoing

This contribution focuses on activities, including adoption of measures, development of programmes that have been undertaken or are ongoing in the implementation of specific provisions of General Assembly resolution 76/72. The relevant activities of the PIF Secretariat and OPOC falls into the following categories of the resolution:

- I. Implementation of the Convention [UNCLOS] and related agreements and instruments
- II. Capacity-building.
- VIII. Maritime safety and security and flag State implementation
- IX. Marine environment and marine resources
- X. Biodiversity
- XI. Marine science
- XIII. Regional cooperation

3.0. I. Implementing of the Convention [UNCLOS] and related agreements and instruments

3.1. 2021 PIF Declaration

On 6 August 2021, PIF Leaders unanimously adopted the ground-breaking *Declaration on Preserving Maritime Zones in the face of Climate Change-Related Sea-Level Rise*. The Declaration clarifies the PIF interpretation of the impacts of climate change-related sea-level rise on maritime zones, whilst at the same time, contributes to the progressive development of state and regional practice on this issue.

The Declaration affirms PIF Leaders' position that UNCLOS imposes no affirmative obligation to keep baselines and outer limits of maritime zones under review nor to update charts or lists of geographical coordinates once deposited with the Secretary-General of the United Nations.

The Declaration also declares the position that the PIF membership intend to maintain these zones without reduction, notwithstanding climate change-related sea-level rise, and not to review and update the baselines and outer limits of maritime zones as a consequence of climate change-related sea-level rise.

The Declaration also proclaims that once established in accordance with UNCLOS and notified to the Secretary-General of the United Nations, maritime zones will be maintained as such, along with rights and entitlements flowing from them, *without reduction* notwithstanding any physical changes connected to climate change-related sea-level rise.

PIF Members have also taken this further, including Fiji's enactment of this PIF position under section 80 of its recently enacted *Climate Change Act 2021*.¹ Tuvalu has also incorporated the permanency of maritime zones and statehood within their foreign policy engagement with the international community. Other PIF Members are in the process of reflecting this within their national laws.

To date, advocacy continues at all levels, bilaterally and globally, with the Declaration being one of the PIF priorities for international engagement and advocacy. The Heads of State and Government of the AOSIS, in their 2021 Declaration recognizes a key tenet² of the Declaration. The Climate Vulnerable Forum, in their 2021 Dhaka-Glasgow Declaration, called for support for the Declaration.³ The OACPS Ministers in charge of Fisheries and Aquaculture at their 7th Meeting on 8 April 2022, supported the Declaration.⁴ In a nutshell, international reactions to the Declaration have been largely positive.

¹ *Permanence of Fiji's maritime boundaries and maritime zones*

80. - (1) This Act recognises the permanence of Fiji's maritime boundaries and maritime zones and maintains the rights and entitlements that flow from Fiji's maritime zones under Articles 3, 8, 33, 49, 57 and 76 of UNCLOS notwithstanding the effects of climate change and sea level rise.

² "*The Ocean ... 41. Affirm that there is no obligation under the United Nations Convention on the Law of the Sea to keep baselines and outer limits of maritime zones under review nor to update charts or lists of geographical coordinates once deposited with the Secretary-General of the United Nations, and that such maritime zones and the rights and entitlements that flow from them shall continue to apply without reduction, notwithstanding any physical changes connected to climate change-related sea-level rise;*"

³ "8. Maritime Zones: We call on all States to support the principles outlined in the Pacific Islands Forum 2021 Declaration on Preserving Maritime Zones in the face of Climate Change related Sea-level rise, in a plea to authorities at all levels to support the protection and preservation of maritime zones from the threats of climate change. The Declaration preserves maritime zones in the face of their erosion due to the detrimental effects of climate change driven sea-level rise on territorial integrity, while upholding the centrality of the UN Convention on the Law of the Sea."

⁴ Declaration of the 7th Meeting of the OACPS Ministers in charge of Fisheries and Aquaculture http://www.acp.int/sites/acpsec.waw.be/files/user_files/user_15/Declaration_%207thMMFA_EN.pdf

At their 6th Meeting held 4 April 2022, the Specialist Sub-Committee on the Sea-Level rise in relation to international law⁵ discussed taking forward regional discussion on the issues of sea-level rise in relation to statehood and the protection of persons. Members tasked the PIF Secretariat to convene a 2022 Regional Conference to take this forward in alignment with the current work of the International Law Commission (ILC) on the issues of statehood and persons affected by sea-level rise.

4.0. II. Capacity-building

4.1. PIF – CIL Course on International Law

From 2 to 23 March 2022, the Centre for International law (CIL) of the National University of Singapore, in collaboration with the PIF Secretariat, delivered a virtual weekly 3-hours course specifically designed for PIF Members on a number of PIF Priorities. The courses cover a basic overview and understanding of international law concepts, rules and related issues on the following topics – (1) Introduction to International Law, (2) COP26 and Climate Ocean issues, (3) The Law of Statehood, and (4) International Human Rights Law with a focus on sea level rise-related issues.

4.2. Monitoring, Evaluation and Reporting on National Ocean Policies and National Progress towards implementing the SDG14 targets

OPOC is setting up a – [Pacific Ocean Initiatives Dashboard](#) – a registry that tracks ocean projects/initiatives which aims to assist Pacific Island countries with their capacity in monitoring & evaluation (M&E) their ocean commitments, particularly, the SDG14 and targets within the 2030 Agenda, and their ocean policies. There is still need for more targeted capacity building initiatives on data/information platforms as well as M&E towards the ocean commitments.

4.3. Pacific Resilience Partnership

The Pacific Resilience Partnership (PRP) established to support effective implementation of the Framework for Resilient Development in the Pacific: An Integrated Approach to Address Climate Change and Disaster Risk Management (FRDP) 2017 – 2030 has developed the Pacific Resilience Standards (PRS) a tool that seeks to facilitate excellence in resilience development through 4 main pillars of resilience: **Integrate, Inform, Include, Sustain** putting into practical application the FRDP guiding principles.

⁵ A dedicated PIF Member-led and driven mechanism to support PIF Members' efforts at national, regional, and international levels to progress and advance Leaders' commitments and continued discussions on the issue. Its Work Programme includes closely engaging in all UN processes considering the issue, including the 21st Meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea whose theme is sea-level rise and its impacts. As well as the International Law Commission (ILC) study on the topic, to which the Forum has made submissions on the topic as well as in response to the First Issues Paper by the Co-Chairs of the Study Group in relation to the sub-topic law of the sea issues. The Specialist Sub-Committee continues to ensure the collective engagement and contribution of the PIF to global and regional discussions and securing the rights and entitlements of Pacific coastal states against sea-level rise and its impacts. See details in the PIF Contribution to the 2021 Report of the UN Secretary General on Oceans and the Law of the Sea https://www.un.org/Depts/los/general_assembly/contributions_2021/PIFS.pdf

Complementary to this is the work that is ongoing to finalize the FRDP Monitoring and Evaluation Framework (FRDP M&E Framework) with the first draft noted by PIF Leaders in their 2021 meeting. The FRDP M&E Framework is focused on monitoring countries implementation of the FRDP in terms of policies and processes in place to measure resilience and draws on the common thematic areas of resilience and indicators from across the region that align with the FRDP goals, the Sendai Framework, SDGs, SAMOA Pathway and Paris Agreement. Once these thematic areas of resilience and indicators are validated, the next step is to provide measures of impact and measures of how the FRDP is supporting, strengthening and/or enabling these thematic areas of resilience. Both tools are expected to contribute to enhanced M&E at the national and regional levels.

4.4. Additional Capacity Building to SIDS through implementing SAMOA Pathway

Small Islands Developing States (SIDS) depend on the ocean to sustain their lives and livelihoods. Indeed, there is need for targeted technology transfer and capacity building to accelerate the needs of the SIDS. This may be further leveraged by the important role of international partnerships, and the wider co-benefits that effective capacity building initiatives to SIDS. Additionally, to stress the challenges faced by SIDS in accessing finance, which severely limits national efforts to developing and enhancing local capacity, and the need to fill these gaps.

5.0. Maritime safety and security and flag State implementation

5.1. International Migration

The PRP governance mechanism includes the Technical Working Group on Human Mobility which is supporting work being progressed through the *Pacific Climate Change Migration and Human Security (PCCM-HS)* programme to develop a robust and practical draft regional framework that aligns with existing frameworks, with the guidance of member states, to address the key issues emerging in the context of climate change and disaster mobility risks.

5.2. Traditional Knowledge and Maritime Safety

There is increasing interests to revive the role of traditional knowledge (TK) as recognized science to inform the work on oceans including maritime safety. The Pacific is working towards establishing a regional expert working group that will close the gap of limited documentation (respecting intellectual property rights and disclosure of TK with prior/proper informed consent of TK holders), practice and application of cultural & traditional knowledge in the ocean agenda of the Blue Pacific.

6.0. Marine environment and marine resources

6.1. ALPS Issue

Nuclear legacy and related issues have been a longstanding agenda item on PIF Leaders agenda. The 1985 *South Pacific Nuclear Free Zone Treaty* (Rarotonga Treaty), which establishes the South Pacific nuclear free zone, was a product of various nuclear testing programmes undertaken in the Pacific region.

In the Rarotonga Treaty, State Parties were determined to keep the region free of environmental pollution by radioactive wastes and other radioactive matter.⁶ State Parties also undertakes not to dump, and not to take any action to assist or encourage the dumping by anyone of, radioactive wastes and other radioactive matter at sea anywhere near the Zone.⁷

In 2019, PIF Leaders expressed concern for the significance of the potential threat of nuclear contamination to the health and security of the Blue Pacific her people and prospects and acknowledged the importance of addressing the long-standing nuclear testing legacy issues in the Pacific and called for the operationalization of the provisions of the Rarotonga Treaty.

On 15th December 2021, the first meeting of the Consultative Committee under the Rarotonga Treaty was convened following the 2020 call by States Parties in their First Meeting held on 15 December 2020 to advance the PIF Leaders' 2019 decision to operationalise the Treaty. Work on operationalizing the Treaty is currently ongoing.

On 13 April 2021, the Government of Japan announced its intention to discharge Advanced Liquid Processing System (ALPS) treated water from its Fukushima Nuclear Power Plant into the Pacific Ocean. This is expected to commence in early 2023.

On 2 July 2021, at the Ninth Pacific Islands Leaders (PALM9) Meeting with Japan, Leaders committed to international consultation, international law, and independent and verifiable scientific assessments. PIF Members further committed to pursue independent guidance to interpret the scientific evidence as it becomes available.

In December 2021, a Panel of Independent Experts were appointed to assist PIF Members in their efforts to pursue independent guidance to interpret scientific evidence. So far, having access to all relevant data to make an informed decision is proving to be a greater challenge. International consultations are currently ongoing with Japan and the International Atomic Energy Agency (IAEA) but time is running out noting early 2023 as the planned commencement date for release.

6.2. PIF Submission to the ILC

On 31 December 2021, the PIF made a submission on the International Law Commission (ILC)'s call for views on the sub-topics of "sea-level rise in relation to statehood" and "the protection of persons affected by sea-level rise". The submission comprised collective inputs to this current and important international law development process. PIF Members noted that due to the complexity of the issues of statehood and persons affected by sea-level rise, the Forum has not had the

⁶ Preamble, *South Pacific Nuclear Free Zone Treaty* (Rarotonga Treaty)

⁷ Article 7(1), *Rarotonga Treaty*

opportunity to consider a collective position specific to the issues. The submission highlighted that Members may further consider these issues in the future, and that due consideration of these two sub-topics should be guided and informed by applicable principles and norms of international law and relevant international frameworks and standards. Furthermore, the PIF ILC submission of 31 December 2021 also indicated issues and ongoing efforts and projects in the region at the national level on Statehood and the protection of persons affected by sea level rise. These include national legislation, policies and strategies and the involvement of international Organisations (and their regional offices in the Pacific).

6.3. PIF-FIFA MoU

The PIF Secretary General recently signed an MOU with FIFA – the international governing body for football – on climate change and resilience, to use football diplomacy as a catalyst for driving stronger climate change mitigation action and behavioural change among the global community, leveraging financing for resilience building including support for the Pacific Resilience Facility, as well as supporting climate-resilient football development in the Pacific region. The Action Plan for the MOU is being drafted after a recent meeting between the Secretariat, FIFA and the Oceania Football Confederation in May.

7.0. Marine biodiversity

7.1. BBNJ

OPOC have been coordinating experts from Pacific sub-regional organisations, namely the Forum Fisheries Agency (FFA), the PIF, the Pacific Community (SPC), and the Pacific Regional Environmental Programme (SPREP), to support Pacific delegations engaging in the BBNJ process. In addition to providing technical support, the OPOC has provided funding for capital-based delegates as well as experts from the subregional organisations to attend IGC 4. This support was provided in partnership with the government of Australia.

7.2. Pacific Framework for Action on Scaling up Community-based Fisheries Management (CBFM): 2021-2025

The Pacific Framework for Action on Scaling up CBFM: 2021-2025 is a broad regional policy framework that provides regional and sub-regional guidance in implementing the scaling up of CBFM that supports and empowers local communities. The policy document highlight agreed key actions required to support and ramp up implementation of the Framework for Action.

7.3. States' to progress measures including marine areas and other tools to protect the marine environment

The Pacific in their 2021 Pacific Islands Forum Ocean Statement paragraph 17, commits to responsibly and effectively manage 100% of the Blue Pacific Ocean within and beyond national jurisdiction.

8.0. Regional Cooperation

8.1. POA Meeting 2022

On the 7 and 8 June 2022, a meeting of the Pacific Ocean Alliance was convened. The theme for this meeting was, “Accelerating Blue Pacific Ocean action for 2030 and beyond: Pathway to Lisbon UN Ocean Conference”. The two-day meeting was framed in such a way that during the first day, it engages all stakeholders of the Pacific Ocean Alliance on conversations on a regional stock-take of progress and then strategic discussions on future key ocean actions. The second day was proceeded first with World Ocean Day celebrations by Government of Fiji, Civil Societies and schools in the morning, and then took the latter part of the day to a deep dive into the preparations before the second UN Ocean Conference to be held in Lisbon, Portugal. The discussions involved finalizing messages to the Interactive Dialogues of the Conference as well as engagements such as side events and other meetings. The POA meeting will produce outcome documents such as (i) POA 2022 Meeting Summary (with recommendations on ways forward), (ii) Consolidated Plans for Events and Attendance in Lisbon and iii) Additions to Messages Guides. These products will assist the Pacific Island Countries and Territories, in their engagement at the UN Ocean Conference, as well as in their own policy shaping or planning processes where it relates to ocean priorities.

8.2. Oceans Taskforce

The Council of Regional Organisations in the Pacific (CROP) placed high importance on ocean issues and the grave need for the Pacific Island Countries to engage in the inter-governmental global processes and conferences relating to ocean. As a response to this, the CROP established the CROP Taskforce on International Engagement and Advocacy for Ocean Events in 2020, also known as Ocean Taskforce. This Taskforce was co-chaired by Secretary General/Pacific Ocean Commissioner of the Pacific Islands Forum and the Director General of the FFA. The membership is high level and senior officials of the respective regional Organisations.

The main objective of this taskforce is to provide technical advice that will inform strategic engagement and advocacy messaging to Forum’s Members in preparation for, and participation at, the 2nd UN Ocean Conference and other ocean-related events in 2021 and 2022. The Taskforce has been very instrumental in coordinating regional inputs on messaging and advocacy activities (Palau Conference Messaging Guide) that led up to the Palau’s 7th Our Ocean Conference in April. This group will also play a role in preparing the region before the 2nd UN Ocean Conference.

8.3. Pacific Maritime Boundaries Consortium

As a partner of the Pacific Maritime Boundaries Consortium, led by the Pacific Community (SPC), PIF had also supported SPC on the facilitation and providing of technical advice to Members on the following –

1. Workshop One – Observations to UN DOALOS (26 August 2021);
2. Workshop Two – Stability Clauses in domestic legislation (1 September 2021);
3. Workshop Three – Stability clauses in the Pacific Maritime Boundaries Treaties (8 September 2021); and
4. Maritime Boundaries Virtual Working Session and High-Level Dialogue (29 – 30 September, & 16 – 17 November 2021)

8.4. FOC Specialist Sub-Committee on SLR

Following the establishment of the Specialist Sub-Committee on Sea-level rise in relation to International law (Specialist Sub-Committee) in 2020, as a dedicated Member-led and driven mechanism, the Specialist Sub-Committee has supported Forum Members’ efforts at national, regional, and international levels to progress and advance Leaders’ commitments and continued discussions on the issue of sea-level rise in relation to international law. Its Work Programme includes closely engaging in all UN processes including the work of the ILC, to which the Forum has recently made a submission on the sub-topics of “statehood” and “persons affected by sea-level rise which also fed into the Second Issues Paper by the Co-Chairs of the Study Group on statehood and persons affected by sea-level rise. The Specialist Sub-Committee will continue to ensure the meaningful engagement and contribution of the PIF to shaping global and regional discussions and securing the rights and entitlements of Pacific coastal states against sea-level rise and its impacts.