

1) NATIONAL LIMITS OF JURISDICTION

a) Marine Zones (Declaration) Ordinance 1983

MARINE ZONES (DECLARATION) ORDINANCE 1983

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AN ORDINANCE

provision in respect of the internal waters, the archipelagic waters, territorial sea, the exclusive economic zone and the contiguous zone of

Commencement:

ENACTED BY THE PARLIAMENT OF TUVALU:

1. This Ordinance may be cited as the Marine Zones (Declaration) Ordinance 1983, and shall come into operation on such date as the Minister may, by notice, appoint.

2. (1) In this Ordinance, unless the context otherwise requires -

"the base-line of Tuvalu" means 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;

"conservation and management" includes all rules, regulations, methods and measures that -

(a) are required to build, restore or maintain, or are useful in building, restoring or maintaining, any fishery resource or the marine environment; or

(b) are designed to ensure that -

(i) a supply of food and other products may be taken, and 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 uses of those resources;

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

"low-tide elevation" means a naturally-formed area of land that is surrounded by and is above water at mean low-water spring tides but is submerged at mean high-water spring tides;

"low-water line", in relation to any area, means the line of low water at mean low-water spring tides as depicted on the largest scale nautical chart of the area held by the Minister;

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"the median line" means a line every point of which is equidistant from the nearest points on -

- (a) the base-lines from which the territorial sea of Tuvalu is measured; and
- (b) the corresponding base-lines of any other country.

"nautical mile" means an international nautical mile of 1852 metres.

(2) For the purposes of this Ordinance, permanent structures that form an integral part of a harbour system shall be regarded as forming part of the coast, installations on artificial islands.

References to rules of international law

3. Where in this Ordinance it is provided that anything done, or any law or order shall be made, in accordance with the rules of international law, the question, whether or not it was so done or made, is non-justiciable.

Application of this Ordinance

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

Internal waters

5. (1) For the purposes of any law of Tuvalu, the internal waters of Tuvalu are -
- (a) all waters on the landward side of the base-lines which the breadth of the territorial sea is measured from; and
 - (b) where closing lines are drawn in accordance with Subsection (2) - the waters inland of those lines to the extent that they are outside those base-lines.
- (2) The Minister may, in accordance with the rules of international law, declare, by reference to
- (a) physical features marked on official charts; or
 - (b) lists of geographical co-ordinates, specifying the geodetic datums,

the points between which closing lines are to be drawn for the purpose of determining the outer limits of the internal waters of Tuvalu, in the case of the mouths of or entrances to lagoons.

Archipelagic waters

6. (1) For the purposes of any law of Tuvalu, the archipelagic waters (if any) of Tuvalu comprise all areas of sea contained within the base-lines established under Subsection (2).

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(2) The Minister may, in accordance with the rules of international law, declare, by reference to

- (a) physical features marked on official charts or
- (b) lists of geographical co-ordinates, specifying the geodetic datums,

the points between which straight base-lines are to be drawn for the purpose of determining

- (c) the outer limits of the archipelagic waters of Tuvalu; and
- (d) the inner limits of the territorial sea.

7. (1) Subject to Subsection (2), for the purposes of any law of Tuvalu the territorial sea of Tuvalu is those parts of the sea within 12 nautical miles from the base line of Tuvalu.

(2) Where archipelagic base-lines are drawn under Section 6(2), the breadth of the territorial sea shall be measured from those base-lines to the extent to which they are outside the outer limits of the internal waters of Tuvalu.

8. (1) Subject to the succeeding provisions of this section, for the purposes of any law of Tuvalu the exclusive economic zone of Tuvalu comprises those parts of the sea having -

- (a) as their inner limits - the outer limits of the territorial sea; and
- (b) as their outer limits - a line drawn 200 nautical miles seaward from the base-lines from which the breadth of the territorial sea is measured.

(2) The Minister may, in accordance with the rules of international law, declare, by reference to -

- (a) physical features marked on official charts; or
- (b) lists of geographical co-ordinates, specifying the geodetic datums.

the points between which straight base-lines are to be drawn for determining the outer limits of the exclusive economic zone.

(3) Where base-lines are drawn in accordance with Subsection (2), the breadth of the exclusive economic zone shall be measured from those base-lines.

The territorial sea

The exclusive economic zone

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(4) The Minister may, by order, for the purpose of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the exclusive economic zone of Tuvalu are such as are specified in the order.

(5) Where the median line is less than 200 nautical miles from the line from which the breadth of the territorial sea is to be measured, the outer limits of the exclusive economic zone extend only to the median line.

The
contiguous
zone

9. For the purposes of any law of Tuvalu, the contiguous zone of Tuvalu is those parts of the sea within 24 nautical miles from the base-lines from which the breadth of the territorial sea is measured.

Legal
character
of marine
zones, etc.

10. (1) The sovereignty of Tuvalu extends beyond its land territory and internal waters, and its archipelagic waters (if any), over its territorial sea, and to the airspace over them and the seabed and subsoil under them, and the resources contained in them.

(2) Within the exclusive economic zone, Tuvalu has sovereign rights -

(a) for the purposes of exploring and of exploiting, conserving and managing the natural resources, whether living or non-living, of

(i) the sea-bed; and

(ii) the subsoil under the sea-bed; and

(iii) the waters over the sea-bed; and

(b) with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the waters, currents and winds.

(3) Within the exclusive economic zone Tuvalu has such other rights as are conferred or recognised by international law.

(4) Within the contiguous zone, Tuvalu has all rights necessary -

(a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within the territory, and territorial sea or the archipelagic waters (if any) of Tuvalu; and

(b) to punish any such infringement,

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

(5) The sovereignty and rights of Tuvalu under this section shall be exercised in accordance with the rules of international law.

11. (1) Subject to the succeeding provisions of this section, ships and aircraft of all States have, in accordance with the rules of international law, the right of free passage through and over the territorial sea and the archipelagic waters (if any) of Tuvalu.

(2) The Minister, may, by order -

(a) designate, in accordance with the rules of international law, sealanes 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; and

(b) prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sealanes.

(3) In sealanes and air routes designated under Subsection (2) all ships and aircraft may, in accordance with the rules of 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 exclusive economic zone to another part of it.

(4) Until sealanes and air routes are designated under Subsection (2), the rights of navigation and overflight referred to in Subsection (3) may be exercised through and over all routes normally used for international navigation and overflight.

(5) The rights of navigation and overflight referred to in Subsections (3) and (4) are subject to all laws of Tuvalu made in accordance with the rules of international law.

(6) Subject to this and any other Ordinance and to the rules of international law, all States and their nationals 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, compatible with the rules of international law.

12. Where no other provision is made by or under any other Ordinance for the purpose, the Minister may make regulations, which shall be in accordance with the rules of international law, for all or any of the following purposes -

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- (a) regulating the conduct of scientific research within the exclusive economic zone; and
- (b) 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
- (c) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone, including requirements for the establishment of safety zones around any such island, installation or structure; and
- (d) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone; and
- (e) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of Tuvalu in relation to the exclusive economic zone, or as are necessary to give full effect to the provisions of this Ordinance.

Charts,
publicity,
etc.

13. (1) The Minister shall cause all closing lines, base-lines and other lines drawn for the purposes of this Ordinance, for determining the limits of the internal waters the archipelagic waters (if any), the territorial sea, the exclusive economic zone and the contiguous zone of Tuvalu, to be clearly indicated on charts of a scale or scales adequate for them to be readily determined, and shall give adequate publicity to them.
- (2) A question, whether adequate publicity has been given under Subsection (1) to any matter, is non-justiciable.
- (3) A copy of each chart referred to in Subsection (1) shall be deposited with the Secretary-General of the United Nations and the Secretary-General of the South Pacific Commission.

Evidentiary
provisions

14. In any proceedings before a court or person acting judicially, a certificate purporting to be signed by the Minister stating that any specific nautical chart of any area is a chart to which Section 13 applies that is held by the Minister is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it.