

# AGREEMENT BETWEEN THE REPUBLIC OF FIJI AND SOLOMON ISLANDS CONCERNING THEIR MARITIME BOUNDARY

## WRITTEN ANALYSIS

### 1.0 INTRODUCTION

- 1.1 The United Nations Convention on the Law of the Sea ('**UNCLOS**') provides the legal principles for coastal states to define their maritime boundaries and to enjoy the rights and obligations set forth in UNCLOS to utilise and sustainably manage the resources within their Exclusive Economic Zone ('**EEZ**').
- 1.2 Maritime boundaries are critical for governance, security, law enforcement, and marine resource management within a country's maritime zone. Fiji is progressing in securing and finalising the delimitation of its maritime boundaries through negotiations with neighboring Pacific island countries.
- 1.3 According to UNCLOS, all coastal states are entitled to a 12 nautical mile territorial sea (Article 3 of UNCLOS), 24 nautical mile contiguous zone (Article 33 of UNCLOS), and a 200 nautical mile EEZ (Article 57 of UNCLOS) including the extended continental shelf claims not exceeding 350 nautical miles (Article 76 of UNCLOS) from the baseline from which the territorial sea is measured.
- 1.4 As a party to UNCLOS, Fiji has an obligation to define its maritime boundaries, most especially its EEZ which, while it is measured to 200 nautical miles, often overlaps with the EEZ boundaries of other coastal neighboring States which surround Fiji. In accordance with Article 74 of UNCLOS, if there is an overlap of the EEZ boundaries between coastal neighboring States, these States need to negotiate and finalise an agreement for the delimitation of those EEZ boundaries.
- 1.5 Therefore the Agreement between the Republic of Fiji and the Solomon Islands concerning their Maritime Boundary ('**Agreement**') focuses on resolving Fiji's overlapping EEZ boundaries with the Solomon Islands.

## MARITIME BOUNDARY - EEZ

- 1.6 Fiji shares its EEZ boundaries with the following neighboring countries - Vanuatu, Tonga, Tuvalu, Solomon Islands, Wallis and Futuna and New Caledonia.
- 1.7 To-date Fiji has concluded negotiations and signed maritime boundary agreements for its EEZ with Tuvalu, Wallis and Futuna and New Caledonia. While the agreement with Solomon Islands on shared maritime boundaries is hereby submitted before Parliament for its consideration, negotiations are ongoing for the conclusion of maritime boundary agreements with Tonga and Vanuatu.
- 1.8 The Agreement contains provisions for the resolution of the overlap of our EEZ with the EEZ of Solomon Islands in the north-west of the Fiji basin.
- 1.9 The overlapping EEZ boundary between Fiji and Solomon Islands is settled through the equidistance principle (equal distance from both countries EEZ) through a median line which is calculated from the base points of the respective countries. There is no dispute concerning this demarcation.
- 1.10 The remaining step is for both countries to sign an agreement which reflects the agreed geographical coordinate points (**'points'**) for the delimitation of the boundaries that have been agreed between the parties in negotiations.

## **2.0 SUMMARY OF THE AGREEMENT**

### **Preamble:**

- 2.1 The preamble of the Agreement provides for preliminary provisions of the Agreement and sets out the aspirations of the Agreement for the delimitation of the overlapping EEZ boundaries between Fiji and the Solomon Islands (**'Parties'**).

### **Article 1: Interpretation**

- 2.2 Article 1 of the Agreement provides for the interpretation of key provisions in the Agreement.

## **Article 2: Purpose**

2.3 Article 2 of the Agreement sets out the purpose of the Agreement which is to establish, in accordance with international law, the EEZ maritime boundary between Fiji and the Solomon Islands.

## **Article 3: Maritime Boundary between Fiji and the Solomon Islands**

2.4 Article 3 of the Agreement sets out the geographical coordinates of points for the delimitation of overlapping EEZ between Fiji and the Solomon Islands.

## **Articles 4: Without Prejudice**

2.5 Article 4 of the Agreement is a without prejudice provision that ensures that the Agreement will not be a barrier to any further negotiations between Fiji and the Solomon Islands on any matters pertaining to international law, law of the sea, regional cooperation, seabed and continental shelf areas.

## **Article 5: Sovereign Rights**

2.6 Article 5 of the Agreement states that the geographical coordinates of points in Article 3 will be the basis for the delimitation of the EEZ territory within which the respective Parties will exercise their sovereign rights pursuant to Article 56 of UNCLOS. Article 56 of UNCLOS confers rights, jurisdiction and duties of the coastal State within their respective EEZ territory.

## **Article 6: Adjustments to Maritime Boundary**

2.7 Article 6 of the Agreement states that if new surveys or resulting charts and maps should indicate that changes in the base point coordinates are sufficiently significant to require adjustments of the maritime boundary, the Parties agree that an adjustment will be carried out on the basis of the same principles as those used in determining the maritime boundary, and such adjustments shall be provided for in a Protocol to this Agreement.

## **Article 7: Dispute Resolution**

2.8 Article 7 of the Agreement is the dispute resolution provision and states that any dispute between the parties concerning the interpretation or application of this Agreement shall be settled peacefully through consultation and negotiations between the Parties or through negotiation in accordance with international law as agreed to by the Parties.

## **Article 8: Equitable Benefit from Resource Exploitation**

2.9 Article 8 of the Agreement confers equitable benefit from resource exploitation and states that any single accumulation or deposit of liquid hydrocarbon, natural gas, or other mineral lies on the maritime boundary median line, the accumulation or deposit of such resources shall be effectively exploited by either or both Parties and both Parties shall equitably share the benefits of such resource exploitation.

## **Article 9: Agreement Deposit**

2.10 Article 9 of the Agreement confers provisions on the deposit of the Agreement and its accompanying charts, coordinates or base points after its execution to the relevant stakeholders such as the Division for Ocean Affairs and the Law of the Sea ('DOALOS') and the Secretary-General of the United Nations.

## **Article 10: Entry into Force**

2.11 Article 10 of the Agreement is the provision for the entry of force of the Agreement. Each Party shall notify the other of the completion of its national procedures to bring this Agreement into force. This Agreement shall enter into force on the date of the later note in an exchange of notes between Parties indicating that each Party has completed its national procedures for the entry into force of this Agreement.

## **Annexure: Solomon Islands and Fiji's Shared Economic Exclusive Zone**

2.12 The Annexure to the Agreement is an illustration of the effect of the agreed geographical coordinates of points in Article 3 of the Agreement and the effect of the Agreement with respect to the delimitation of the Parties' EEZ boundaries.

### **3.0 REQUIREMENTS FOR IMPLEMENTATION**

- 3.1 If Parliament approves the Agreement and its execution by both Parties, the Agreement will enter into force once both Parties have completed their national procedures in order to implement the Agreement and have exchanged diplomatic notes to that effect.
- 3.2 Consequently the Agreement will be deposited with DOALOS and the Secretary-General of the United Nations in accordance with Article 75(2) of UNCLOS.

### **4.0 IMPACT OF EXECUTION OF THE AGREEMENT**

- 4.1 The Agreement is a milestone in Fiji's broader global commitments to UNCLOS, our commitments under SDG 14 and Fiji's pledge at the Oceans Conference in 2017 to finalise its maritime boundaries issues by 2025.
- 4.2 The Agreement is pivotal in the resolution of maritime boundaries regionally. In total there are 48 shared maritime boundaries in the Pacific with 35 boundaries being resolved through agreements such as this one. Fiji's conclusion and execution of this Agreement will bring that number up to 36.
- 4.3 The Agreement will not have any financial implication or place any financial obligations on Fiji.
- 4.4 The endorsement and execution of this Agreement will contribute to improving governance, security, law enforcement, and management of the marine resources within Fiji's EEZ.

### **5.0 RECOMMENDATION**

- 5.1 It is recommended that Parliament endorse the Agreement for signing by the Parties.