1. Oceans of Opportunity? The Limits of Maritime Claims in the Western and Central Pacific Region
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Introduction
The South Pacific region hosts twelve independent States (Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu), two freely associated with New Zealand (Cook Islands and Niue) and another dependent on New Zealand (Tokelau). Together these countries, and Australia and New Zealand, comprise the Pacific Islands Forum. Additionally, there are a number of territories dependent on or in free association with extra-regional metropolitan powers such as France (French Polynesia, New Caledonia, Wallis and Futuna) the United Kingdom (Pitcairn Islands) and the United States (American Samoa, Guam and Northern Mariana Islands).1 The Pacific island States are predominantly remote both from one another and their metropolitan Pacific Rim neighbours.2

Taken altogether, the Pacific island States total just over 550,000km$^2$ of land (84 per cent of which is provided by Papua New Guinea) scattered over the vast 165 million km$^2$ Pacific Ocean which encompasses around one third of the surface of the earth.3 An alternative way of conceptualising this vast space is to imagine a region larger in area than China and Central Asia combined, but inhabited by only approximately 10 million people (see Figure 1).4

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2 The term “Pacific island States” is used in this chapter to refer to the independent, freely-associated and dependent States and territories of the South Pacific region.
This very isolation and remoteness has afforded the Pacific island States enormous maritime opportunities with claims to jurisdiction over an estimated area of 30,569,000km², equivalent to around 28 per cent of exclusive economic zone (EEZ) claims worldwide. These extensive maritime claims have been facilitated by the introduction of the EEZ out to 200 nautical miles (nm). Additionally, a number of Pacific island States are in a position to assert rights over substantial areas of continental shelf extending beyond their 200nm limits. These maritime jurisdictional zones are of tremendous actual and potential benefit in terms of access to offshore resources, especially tuna, the exploitation of which remains crucial to the economies of many Pacific island States.

Despite this extensive maritime wealth, Pacific island States have not, thus far, fully realised the anticipated economic benefits from their maritime claims. In practice, Pacific island States have experienced great difficulties in securing recognition for, and deriving significant benefits from, their claimed maritime sovereign rights.

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5 While every effort has been made to accurately represent the maritime jurisdictional claims and boundaries of the States located in the Western and Central Pacific region, the map shows theoretical equidistance lines and should be regarded as no more than an illustrative sketch map. With thanks to Andi Arsana


7 It is acknowledged that technically the correct abbreviation for a nautical mile is “M” and that “nm” should only be used for nanometres. However, “nm” is widely used by many authorities (for example the UN Office of Ocean Affairs and the Law of the Sea) and appears to cause less confusion than “M”, which is often assumed to be an abbreviation for metres. Regarding the breadth of the EEZ, Article 57 of LOSC provides that: “The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.” As most coastal States claim a 12nm territorial sea the actual breadth of the EEZ is usually 188nm seaward of territorial sea limits.
Additionally, the predominantly small island States that comprise the region face a range of serious economic, developmental, environmental and security challenges. These problems are partly a consequence of their limited national administrative, institutional and governance capacity, compounded by external power competition in the region coupled with their geographically remote location. Taken together these factors threaten their stability.8

This chapter examines the legal and policy issues associated with maritime opportunities and challenges arising from maritime claims and competing maritime interests in the South Pacific region. The chapter concludes by pointing to some of the ways in which these opportunities are being realised and challenges addressed.

Oceans of Opportunity?
The United Nations Convention on the Law of the Sea (LOSC) of 19829 provides the fundamental ‘constitution for the oceans,’10 and articulates the rights and responsibilities that coastal States have over their adjacent waters. The LOSC enables coastal States to claim sovereignty and sovereign rights over various maritime resources within territorial seas out to 12nm offshore measured from a coastal State’s baselines, archipelagic waters within duly designated archipelagic baselines, and EEZs out to 200nm.11 The LOSC also amended the rules relating to the fixing of the outer limits of the pre-existing continental shelf regime, which may extend beyond the 200nm limit, where the continental margin extends that far offshore (see below).

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8 See, for example, the contributions to Cozens, P. and Mossop, J. (eds) Engaging Oceania with Pacific Asia, Wellington, Centre for Strategic Studies, New Zealand, 2004.
11 A coastal State’s ‘normal’ baselines will consist of “the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.” (LOSC – Article 5). Under certain circumstances a variety of straight line types of baselines may be defined along the coast, notably straight baselines, river and bay closing lines, as well as closing lines for ports and roadsteads (see LOSC – Articles 7-12). The rules relating to the drawing of archipelagic baselines are contained in LOSC– Article 47.
**Sovereignty over Territorial Seas and Archipelagic Waters**

The LOSC recognises coastal State sovereignty over their internal waters (waters landward of straight baselines), territorial sea and archipelagic waters. This sovereignty grants coastal States exclusive rights and control over fisheries resources within these maritime zones. While the maximum seaward extent of the territorial sea was a matter of ongoing contention prior to the conclusion of the Third Conference on the Law of the Sea, the exclusive control of the fisheries resources within the territorial sea has long been recognised. As such, the LOSC grants coastal States ‘absolute and unfettered’ control over the exploitation, conservation and management of the Western and Central Pacific Ocean (WCPO) fisheries within these waters. Coastal States also hold similar rights and control over fisheries resources within their archipelagic waters, only limited by an obligation (without prejudice to their sovereignty) that they respect the traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring State (and any relevant existing agreements). Highly migratory fisheries such as tuna are therefore subject to the sovereignty of the coastal State or, more likely, States, as they migrate through the territorial seas and archipelagic waters.

**Sovereign Rights and the Exclusive Economic Zone**

Beyond the territorial sea, the LOSC granted coastal States sovereign rights over the exploitation, conservation and management of the natural resources within their EEZ. Consequently, coastal States now held rights and responsibilities over the economic activities that occur within these waters, including fisheries.

The EEZ regime represented a compromise between competing interests, especially between developing coastal States and the major maritime powers. Long-standing high seas freedoms relating to, for example, navigation and

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12 LOSC – Article 2.
14 Kaye, S. M. *International Fisheries Management*, The Hague, Kluwer Law International, 2001. It should also be noted that Article 64 of the LOSC (highly migratory species) only applies to highly migratory fisheries within the EEZ and high seas. It does not refer to the territorial or archipelagic seas.
15 LOSC – Article 51. It is understood that this Article was drafted in order to accommodate previously negotiated bilateral agreements such as that between Indonesia and Malaysia, the so-called ‘Jakarta Treaty’ of 1982, which provides Malaysian fishermen to operate in areas located to the east of Indonesia’s Anambas islands, using traditional methods. The treaty also designates navigational and overflight corridors through Indonesian archipelagic waters in order to facilitate communications between peninsula Malaysia and the Malaysian parts of Borneo, Sabah and Sarawak as well as specifically safeguarding submarine pipelines and cables linking these geographically distinct parts of Malaysia. See, *Treaty Between Malaysia and the Republic of Indonesia Relating to the Legal Regime of Archipelagic State and the Rights of Malaysia in the Territorial Sea and Archipelagic Waters* as well as in the Airspace above the Territorial Sea, Archipelagic Waters and the Territory of the Republic of Indonesia Lying Between East and West Malaysia, signed 25 February 1982, entered into force 25 May 1984. Full text available at United Nations Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Practice of Archipelagic States*, United Nations, New York, 1992, pp. 144-155.
16 LOSC – Article 56.
overflight for vessels and aircraft belonging to other States are preserved within EEZs. Simultaneously, coastal States are accorded sovereign rights over the resources off their coasts. In 1984 the United Nations (UN) Food and Agriculture Organisation (FAO) estimated that 90 per cent of marine fish and shellfish were caught within 200nm of the coast. Similarly, it was estimated that 87 per cent of the world’s known submarine oil deposits would fall within 200nm-breadth zones of jurisdiction. The conclusion of the LOSC and the introduction of EEZs can therefore be characterised as the most significant reallocation of fisheries property rights of the 20th Century, shifting these valuable resource rights from international to national regimes.

The introduction of the EEZ concept in particular led to a tremendous increase in the scope of maritime space coming under national jurisdiction as coastal States quickly moved to take up this opportunity. EEZs encompass 147 million km² or around 41 per cent of the world ocean – an area roughly equivalent to the total area of land territory on the surface of the Earth.

All of the South Pacific’s independent States have ratified LOSC, as have most of the extra-regional states with territory in the region. The notable exception to this is the US. The Pacific island States have likewise been enthusiastic in advancing claims to extended maritime zones.

Western and Central Pacific Tuna Fisheries

These EEZ claims represent a tremendous actual and potential benefit to the Pacific island States, especially in regard to the abundant and valuable tuna fisheries. For example, in 2007 the tuna catch in the WCPO was estimated at 2,396,915 tonnes and worth approximately US$3,895 million. These tuna

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20 Although Fiji was the first state to sign LOSC, the Pacific small island developing States were not especially swift to adopt the LOSC due to a number of political, practical and policy considerations. See, Wolfers, E.P. “The Law of the Sea in the South Pacific” in Crawford, J. and Rothwell, D. (eds) The Law of the Sea in the Asian Pacific Region, Kluwer, The Hague, 1995, pp. 41-49, at pp. 41-46.
23 Williams, P. and Terawasi, P. Overview of Tuna Fisheries in the Western and Central Pacific Ocean, including Economic Conditions – 2007. Paper presented to the Fourth Regular Session of the Scientific Committee of the Western and Central Pacific Fisheries Commission, 11-22 August 2008, Port
fisheries represent the primary economic opportunity for many of the region’s small island developing States. Pacific island States depend upon these stocks: as a traditional and important source of food; as a critical form of revenue (US$60-70 million in access fees or as high as 45% of total government revenue in the case of Kiribati); employment (21,000 to 31,000 regional jobs or approximately five to eight per cent of all wage employment); and income (expenditure by locally-based vessels is worth US$130 million). Overall, the value of the annual tuna catch in the region has been calculated to equate to 11 per cent of the combined gross domestic product of all the countries in the region and almost half of their exports while access fees are a significant component of national economies for seven Pacific island States. Consequently, the tuna industry has come to play a critical role in the economies of many Pacific island States.

Moving Beyond the 200 Nautical Mile Limit

As well as codifying the EEZ concept, the LOSC also refined the rules relating to the continental shelf. Previously, the definition of the continental shelf under the relevant 1958 Convention was based on exploitability and was thus open-ended. In contrast, Article 76(1) of LOSC establishes that the continental shelf of a coastal State consists of “the seabed and subsoil of submarine areas”, extending to a distance of 200nm from relevant baselines or “throughout the natural prolongation of its land territory to the outer edge of the continental margin.”

Thus, in accordance with the EEZ concept, codified through LOSC, every coastal State has the right to claim sovereign rights over both the seabed and

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28 The rights and duties of coastal States in relation to the continental shelf are detailed in Part VI of LOSC. See generally, Cook, P.J. and Carleton, C.M. (eds) Continental Shelf Limits, the Scientific and Legal Interface, Oxford University Press, New York, 2000.
30 Article 1 of the Convention on the Continental Shelf of 1958 defined the continental shelf as “the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the Territorial Sea to a depth of 200 metres”, “or to a depth beyond that limit where exploitation of resources was possible”. LOSC, Article 76(1)
the water column out to 200nm, regardless of whether the continental margin actually extends that distance offshore, and provided there are no overlapping claims with neighbouring states.\(^{31}\) Alternatively, where coastal States are positioned on broad continental margins, they are able to assert rights over those parts of the continental shelf beyond the 200nm EEZ limit forming part of their natural prolongation.\(^{32}\) These areas of continental shelf beyond the 200nm limit are frequently referred to as the ‘outer’ or ‘extended’ continental shelf.\(^{33}\)

Article 76 of LOSC goes on to lay down a complex series of formulae through which the coastal State can establish its rights to, and the outer edge of its continental shelf areas seaward of the 200nm limit.\(^{34}\) In order to make these calculations and thus establish entitlement to outer continental shelf areas in accordance with Article 76, a coastal State is required to gather information related to the morphology of its continental margin and its geological characteristics, as well as bathymetric information relating to water depth. A submission then needs to be made to a specialised United Nations body, the Commission on the Limits of the Continental Shelf (CLCS).\(^{35}\)

Although complex, the point here is that Article 76 of LOSC provides for a definable outer limit to the continental shelf claims of coastal States and this represents a major step forward, compared to the indeterminate scenario under the 1958 Convention on the Continental Shelf.\(^{36}\) This is not, however, to

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31 These rights are, however, governed in accordance with Part VI (dealing with the continental shelf) of the Convention rather than Part V (dealing with the EEZ).
32 While no sure figure can be determined until all outer continental shelf submissions have been considered by the CLCS, it has been estimated that outer continental shelf areas may encompass around five per cent of the ocean floor. See, Cook, P.J. and Carleton, C.M. (eds) *Continental Shelf Limits*, Oxford University Press, Oxford, 2000, p. 3.
33 The term ‘extended’ continental shelf gives a somewhat misleading impression that coastal States are somehow extending or advancing claims to “additional” areas of continental shelf. This is not the case as the sovereign rights enjoyed by the coastal State over the continental shelf are, as discussed above, inherent. Coastal States making submissions in respect of outer continental shelf areas are therefore merely seeking to confirm their existing sovereign rights over parts of “their” continental shelf beyond the 200 nm limit.
34 Essentially, Article 76 provides two formulae according to which coastal States can establish existence of a continental margin beyond the 200 nm limit – the “Gardiner Line”, based on reference to depth or thickness of sedimentary rocks overlying the continental crust, or the “Hedberg Line” consisting of 60nm from the foot of the continental slope. Two maximum constraints, or ‘cut-off’ lines are then applied - either a distance of 350nm from relevant baselines or 100 nautical miles from the 2,500 metre isobath. See, LOSC, Article 76(4-5).
35 The CLCS is a body consisting of 21 scientists. Importantly, the CLCS is not a legal body and it does not therefore adjudicate on submissions. Instead, the CLCS plays, or was intended to play, a technical role, evaluating whether coastal States, through their submissions, have fulfilled the requirements of Article 76. On the basis of this assessment the CLCS makes recommendations to the coastal State on the basis of which the coastal State can establish limits that are “final and binding” (LOSC, Article 76(8)).
36 McDorman has stated that the fact that “the real achievement” of Article 76 of LOSC lies not in the complexity of its provisions or in the establishment of the CLCS but in the fact that it provides for “a definable limit” to continental shelf claims “however difficult the defining of that limit may be”. See, McDorman, T. “The Role of the Commission on the Limits of the Continental Shelf: A Technical Body
suggest that the process of preparing a submission to the CLCS, the CLCS’s consideration of it and the subsequent fixing of final and binding outer continental shelf limits is anything but complex, expensive and fraught with a number of daunting uncertainties and ambiguities.37

Outer Continental Shelf Opportunities in the South Pacific

It has been suggested that eight of the Pacific island States – the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Palau, Papua New Guinea, Solomon Islands and Tonga – have a “credible” case to make submissions to the CLCS in respect of a combined area estimated at approximately 1.5 million km² of outer continental shelf beyond their 200nm EEZ limits.38 These countries have been actively engaged in gathering the required scientific information and preparing their submissions for the CLCS. These activities were given considerable impetus by the existence of a deadline for submissions which for many coastal States around the world, including most of the Pacific island States listed above, was 13 May 2009.39 In this context the role of the Oceans and Islands Programme of the South Pacific Applied Geoscience Commission (SOPAC) has been (and continues to be) crucial.

As a result of these efforts a series of submissions from Pacific island States were lodged with the CLCS in early 2009. On 16 April 2009 the Cook Islands lodged its submission with the CLCS in respect of parts of the Manihiki Plateau located to the north of the Cook Islands, to the east of Tokelau and the central grouping of islands belonging to Kiribati (the Phoenix Islands) and west of the easternmost part of Kiribati (the Line Islands) as well as Jarvis Island which is an unincorporated territory of the United States.40 This development was followed, on 20 April 2009, by a partial submission on the part of Fiji in

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37 Indeed, considerable debates have arisen over the interpretation of certain aspects of Article 76 of LOSC. For example, the provisions of Article 76 relating to submarine ridges and analogous features have been termed “a masterpiece of ambiguity” (Prescott and Schofield, 2005). Similarly, debate has arisen regarding the work and practice of the CLCS. See, for example, McDorman, *Ibid.*, and Macnab, R. “Submarine Elevations and Ridges: Wild Cards in the Poker Game of Article 76” in *Ocean Development and International Law*, Vol. 39, 2008, pp. 223-234.


39 The original deadline was set as 10 years after LOSC coming into force on 16 November 1994, However, as this 2004 deadline approached it became clear that many interested States would struggle to complete their submissions in time. Consequently the States Parties to LOSC opted to extend the deadline, taking the date of the adoption of the Commission’s Scientific and Technical Guidelines on 13 May 1999, as the start of the 10 year ‘clock’, resulting in the 13 May 2009 deadline. However, this deadline only applied to States that were party to LOSC prior to 13 May 1999. States becoming Parties to the Convention after that date have 10 years to make a submission from the date of their accession or ratification to LOSC.

respect of the Lau Ridge – northern South Fiji Basin. This area of continental shelf located beyond the 200nm limit is located to the south of Fiji and includes areas concerning which New Zealand has already had a submission considered and recommendations received in 2008. Fiji’s eastern neighbour, the Kingdom of Tonga, also subsequently made a submission on 11 May 2009 concerning the eastern Kermadec Ridge. The outer continental shelf entitlements of Fiji and Tonga may well overlap and Executive Summary of the Fijian submission notes that Fiji and Tonga have held diplomatic consultations on outer continental shelf issues and that Tonga has agreed not to object to the CLCS considering Fiji’s submission, without prejudice to the delimitation of a maritime boundary between the two States.

Additionally, a joint submission by Federated States of Micronesia, Papua New Guinea and Solomon Islands was lodged with the CLCS on 5 May 2009 in respect to Ontong Java Plateau. The submarine plateau area has islands of the Federated States of Micronesia to the northwest, Papua New Guinea to the southwest and south, and the Solomon Islands to the south and southeast. The Republic of Palau also made a submission to the CLCS on 8 May 2009 concerning three areas of outer continental shelf, located to the east, west and north of Palau. The largest of these three areas is that to the north, overlaps with Japan’s submission for the Southern Kyusyu-Palau Ridge and potentially also overlaps with the entitlements of the Federated States of Micronesia (to the east). Palau has stated that its submission is without prejudice to the delimitation of maritime boundaries. Furthermore, the submissions of both

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42 Ibid. 5. The area concerned was submitted as part of New Zealand’s ‘Northern Region’ in its submission of 19 April 2006 and includes outer continental shelf areas relating to the Kermadec and Colville Ridges to the north of New Zealand and up to the 200nm limits of Fiji and Tonga. See, New Zealand Submission to the Commission on the Limits of the Continental Shelf pursuant to article 76(8) of the United Nations Convention on the Law of the Sea. Executive Summary. 19 April 2006, available at, <http://www.un.org/Depts/los/clcs_new/submissions_files/nzl06/nzl_exec_sum.pdf>. With regard to New Zealand’s submission for its Northern Region, the CLCS stated that New Zealand’s submission fulfilled the relevant criteria and recommended the establishment of an outer edge of the continental margin in this area on the basis of New Zealand’s submission. See also a Summary of the Recommendations of the Commission of 22 August 2008, p. 42. Available at, <http://www.un.org/Depts/los/clcs_new/submissions_files/nzl06/nzl_summary_of_recommendations.pdf>.

43 Ibid.


Palau and Japan indicate that these States have no objection to the Commission considering and making recommendations on the other’s submission for this area, without prejudice to maritime boundary delimitation.\(^{47}\)

Furthermore, as a consequence of a June 2008 amendment to the relevant rules, submissions of preliminary information, rather than full submissions, are allowable and several Pacific island States have taken advantage of this option.\(^{48}\) Thus, on 20 April 2009: Fiji made such a submission of preliminary information (over and above its submission mentioned); Fiji and the Solomon Islands lodged a joint submission of preliminary information concerning the Charlotte Bank Region on 21 April 2009; Fiji, the Solomon Islands and Vanuatu also made a joint submission on 21 April 2009 concerning parts of the North Fiji Basin); and the Solomon Islands did so in respect of the ‘donut hole’ located between the Solomon Islands, Papua New Guinea and Australia. Both Papua New Guinea and the Federated States of Micronesia made separate but coordinated submissions of preliminary information on 5 May 2009 concerning the Mussau Ridge and Eauripik Rise. It is likely that the submissions of both Papua New Guinea and the Federated States of Micronesia will overlap not only with one another but with a submission from Indonesia for areas of outer continental shelf located seaward of its 200nm limit off Irian Jaya.\(^{49}\) Finally, on 11 May 2009, New Zealand made a submission of preliminary information on behalf of Tokelau for parts of the Robbie Ridge and Manihiki Plateau.\(^{50}\)

In due course submissions are also likely to be forthcoming from both Tuvalu and Kiribati. However, as these two States became parties to LOSC in 2002 and 2003 respectively, consequently the deadlines for their submissions are set at 2012 and 2013, 10 years from the date that they became parties to LOSC.\(^{51}\)


\(^{48}\) In June 2008 the meeting of the State Parties to the LOSC decided that instead of a full submission, coastal States may instead submit “preliminary information indicative of the outer limits of the continental shelf beyond 200 nautical miles and a description of the status of preparation and intended date of making a submission”. See, Decision of the eighteenth Meeting of State Parties, SPLOS/183 at <http://www.un.org/Depts/los/meeting_states_parties/SPLOS_documents.htm>. This relaxing in the requirements to meet the deadline and essentially ‘stop the clock’ was taken because many coastal States were struggling to complete their submissions in time to meet the 13 May 2009 deadline applicable to them.


\(^{50}\) Details of these submissions of preliminary information to the CLCS are available at, <http://www.un.org/Depts/los/clcs_new/commission_preliminary.htm>.

\(^{51}\) Tuvalu became a party to LOSC on 9 December 2002 and Kiribati on 24 February 2003 meaning that the deadlines for their submissions to the CLCS are 9 December 2012 and 24 February 2013 respectively.
In keeping with the process outlined above, the CLCS will, in due course, consider these submissions, make recommendations and the coastal States will declare their “final and binding” outer continental shelf limits. However, it is abundantly clear that many of these submissions relate to the same areas of outer continental shelf and overlap. Under this scenario it should be emphasised that the Commission is a scientific rather than technical body. As such it does not have the mandate to consider areas subject to a sovereignty dispute or subject to overlapping maritime claims. Furthermore, the Commission’s recommendations are specifically without prejudice to the delimitation of maritime boundaries. Ultimately, it will up to the coastal States themselves to resolve any overlapping maritime claims and disputes.

Article 77(1) of LOSC provides that coastal States exercise sovereign rights over continental shelf areas “for the purpose of exploring it and exploiting its natural resources”. While resource opportunities related to the outer continental shelf tend to be largely framed in terms of access to seabed energy and mineral resources, coastal States also have sovereign rights over “living organisms belonging to sedentary species.” These are defined as “organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.” Examples of this type of organism include molluscs (abalone, oysters, scallops, trochus shell), crustaceans (lobsters, crabs) and echinoderms (sea urchins, beche-de-mer). These sedentary living resources of the outer continental shelf, including marine genetic resources, may also prove to have considerable value.

Advancement in technologies to explore the seabed has led to the discovery of features such as seamounts, hydrothermal vents, methane seeps and deep sea sediments. The marine species and micro-organisms that have evolved to exist in these extreme environments may provide developmental potential for a range of valuable applications in a number of sectors including medicine and pharmaceutical industries. This has led to the emergence of “bioprospecting” and the deep seabed, including outer continental shelf areas, is likely to be a focus for these activities. This represents a potentially rich resource and opportunity for coastal States. Indeed, marine biotechnology related products were estimated to be worth US$100 billion in 2000 alone. Simultaneously,

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52 LOSC, Article 77(4).
however, such developments pose significant surveillance and enforcement challenges.55

The Limits of Claims to Maritime Jurisdiction

One of the key objectives of the EEZ concept was to facilitate enhanced management and conservation of living resources, thereby addressing rising fears over unsustainable fishing mentioned above. It was also widely anticipated that EEZs would (and should) deliver substantial economic gains to developing states, though whether this has actually taken place is far from clear. It was generally assumed that the granting of sovereign rights to coastal States over their EEZs would significantly benefit coastal States, at some cost to distant-water fishing nations (DWFNs) who previously had fished these waters and the stocks therein (either through displaced effort or requirement to pay access fees). However in practice, DWFNs still largely control key aspects of the global fisheries trade, including access to the most lucrative markets.

This has also largely been the case in the Pacific. While it is clear that the declaration of EEZs has delivered some economic gains to the Pacific island States, they have, thus far, not proved to be as significant as hoped.56 Why is this the case and what can be done to overcome the constraints identified?

Transboundary Resources

The fundamental challenge facing the Pacific island States relates to the highly migratory and transboundary nature of the key living resources at stake. These tuna migrate between the national maritime jurisdictions of the Pacific island States, and between these collective EEZs and the high seas. Furthermore, the migratory patterns of tuna in the Pacific are intimately linked to the El Nino Southern Oscillation (ENSO) Index. This phenomenon involves east-west shifts in the Pacific equatorial “warm pool”, which in turn impacts spatially and temporally on the presence of tuna stocks.57 Essentially, as the warm pool moves, so do the tuna with significant consequences for seasonal catches in individual Pacific island’s EEZs.

Thus, the maritime claims of the Pacific island States, whilst broad, are not broad enough to cover the whole fishery. In this context, not only are maritime boundaries between national claims important but also the ‘boundary’ between the Pacific island States’ collective EEZ limits and the high seas becomes

56 See, for example, Schurman, 1998.
critical, providing the legal and spatial framework against which the maritime geopolitical interactions between coastal States and DWFNs are played out.

Recognition of Sovereign Rights

The Pacific island States have faced a considerable, and ongoing, struggle to win recognition of their sovereign rights over resources in their EEZs from key DWFNs. The EEZ regime provides claimant States with considerable sovereign rights (rather than full sovereignty) in relation to the conservation and utilisation of living resources. However, these rights are not exclusive in nature and are also coupled with significant responsibilities. These obligations are articulated, in particular, in LOSC Articles 61 and 62, dealing with the conservation of living resources, and the utilisation of living resources respectively.

Article 61(1) provides that the coastal State “shall determine the allowable catch of the living resources in its exclusive economic zone.” The Article goes on to specify that the coastal State shall “ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation”, and that such measures shall be designed to “maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield.”

Without prejudice to the provisions of Article 61, LOSC Article 62 provides that the coastal State shall “promote the objective of optimum utilization of the living resources in the exclusive economic zone” and shall determine its own capacity to harvest such resources. Where the coastal State lacks the capacity to harvest the entire allowable catch, Article 62 of the LOSC requires that the coastal State shall give other States access to the surplus of the allowable catch. In doing so the coastal State is required to have “particular regard” to the provisions of LOSC Articles 69 and 70 which deal with land-locked states and geographically disadvantaged States respectively. These provisions can also be interpreted address the concerns of DWFNs that they would be denied access to fishing grounds within newly-declared EEZs. However, the fact that it remains the prerogative of the coastal State to determine the total allowable catch (TAC), determine its domestic harvesting capacity and thus determine the surplus that may be made available to other States means that coastal States have retained control over this process.

Furthermore, LOSC Article 63 provides for cooperation between coastal States where stocks occur in both their EEZs and for cooperation between coastal States and fishing States where stocks occur both in the EEZ of the coastal State and in the adjacent areas of high seas. Article 64 also obliges coastal States and fishing States to cooperate to ensure “conservation” and the promotion of “the objective of optimum utilization” of highly migratory

58 LOSC, Article 61(1).
species. Such cooperation is to be achieved either directly between such states or through the medium of “appropriate subregional or regional organizations.”

Given the highly migratory nature of tuna, comprehensive management of the resource both within and between national EEZs and on the high seas is crucial. Unrestrained exploitation in a particular EEZ or on the high seas clearly has the potential to impact on catches elsewhere, and thus the revenues to be derived from the resource, and the sustainability of the fishery as a whole. However, despite widespread agreement on the need for compatible, indeed comprehensive, management of migratory stocks across the high seas and EEZs, there are significant disputes between coastal States and DWFNs over the interpretation and application of the relevant provisions of LOSC.

Coastal States have steadfastly sought to protect and preserve their sovereign rights as provided for in LOSC and attempted to focus discussions on the need to address unregulated fishing on the high seas. DWFNs have argued that management of highly migratory stocks such as tuna should be applied throughout their range, and therefore they should have a substantive role in management measures on the high seas and in the EEZs of coastal States.

These tensions were explicit in the course of the negotiations leading to the conclusion of LOSC and were not effectively resolved. This is evident in the US refusal until the late 1980s to acknowledge claims by Pacific island States to jurisdiction over tuna stocks within their EEZs in the absence of US participation in their management both on the high seas and within their EEZs. In the context of the LOSC, a resolution of sorts was reached through the use of ambiguous legal language and provisions capable of supporting distinctly differing interpretations.

These fundamental differences of perspective became a recurring theme in subsequent bilateral and multilateral engagements between coastal States and DWFNs – notably in negotiations towards the conclusion of the United Nations Fish Stocks Agreement (UNFSA) and in the Multilateral High Level Conferences leading up to the conclusion of the Western and Central Pacific Fisheries Convention (WCPF Convention) and the consequent creation of the Western and Central Pacific Fisheries Commission (WCPFC).

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The WCPF Convention closely follows the framework established by the UNFSA and emphasises a precautionary and ecosystem based approach to fisheries management. The WCPF Convention applies to all waters of the WCPO, including both high seas and EEZs. However, the WCPF Convention clearly states in Article 4 that nothing in the Convention shall prejudice the rights, jurisdiction and duties of States under the LOSC and UNFSA, and that the WCPFC shall be interpreted and applied in the context of, and in a manner consistent with the LOSC and UNFSA.

There are key disagreements between DWFN and Pacific island States over how the WCPF Convention should be interpreted regarding implementation of management measures in EEZs and on the issue of allocation. Both interpretations cite relevant articles of the WCPF Convention and UNFSA.

Pacific island States argue that the main purpose for the WCPFC is to regulate the high seas and ensure that stocks are not over-fished on the high seas. They note that management measures already exist within their EEZs. This argument is supported by provisions within both the WCPFC and the UNFSA which require measures be compatible across the high seas/EEZ nexus, taking into account existing measures already in practice.

DWFNs argue that the WCPFC, as the primary management authority for tuna across the WCPO, should establish management and conservation measures across the entire range of the stocks, both inside EEZs and on the high seas. These States refer to Article 10 of the WCPF Convention which provides that the WCPFC can determine the quantity of catches, levels of effort, limitations on fishing capacity and other necessary management measures throughout the Convention area.

Pacific island States respond that the WCPFC can establish ‘global’ catch, effort and/or capacity limits across the entire Convention area, but that it is the sovereign right of coastal States to determine catches within their EEZs. This view is supported by the ‘without prejudice to the sovereign rights of coastal States’ clause in Article 10 of the WCPF Convention regarding the WCPFC’s functions.

Similar arguments between coastal States and DWFNs have recently emerged in regard to the application of the WCPFC to the archipelagic waters of coastal States. Due to some controversy over the issue, in 2008 the Chair of the WCPFC requested an opinion from the legal counsel on, amongst other things, the application or otherwise of the WCPFC to archipelagic waters. The legal counsel referred to the WCPF Convention, LOSC and UNFSA and suggested

that the WCPF Convention only has application to the high seas and EEZs, and not the internal waters, archipelagic waters and territorial seas, due to qualifications in UNFSA and the WCPF Convention between “sovereign rights” and “sovereignty”. Nevertheless, the legal counsel noted that in addition to the WCPF Convention, the LOSC and UNFSA, other principles of international law need to be considered, particularly the principle of “good neighbourliness” which requires that States must act in good faith and ensure that activities in their territories do not cause harm or affect the interests of other States.

Despite this, the US continued to oppose such an interpretation and argued that the WCPFC applies to archipelagic waters, as well as EEZs and high seas. Confusingly, the US distinguished between territorial seas and archipelagic waters in this regard and contended that territorial seas remained excluded from the application of the WCPF Convention. Pacific island States, Philippines and Indonesia refuted the US position and argued that as archipelagic waters are deemed to be under the sovereignty of the coastal State, they are outside the jurisdiction of the WCPFC (as is the case with territorial seas).

A critical focus for the WCPFC will be how it develops co-operative management across the high seas/EEZ nexus, and by operation or intent, allocates rights to the tuna resource. Resolving conflicts over interpretations of compatible management will be critical to the effective functioning of the WCPFC and its ability to agree upon, and implement effective conservation and management measures across the range of the stocks.

Enforcement Challenges

A key problem associated with the broad maritime claims to jurisdiction made by the Pacific island States is that of scale. These maritime claims are enormous in scope and present significant monitoring, control and surveillance challenges to ensure sound management and counter the threat of illegal, unreported and unregulated (IUU) fishing. Additionally, maritime boundaries remain largely unsettled so there is some uncertainty as to the precise scope of individual coastal State EEZs. Large EEZs such as these also represent a significant responsibility in ocean management and require sophisticated infrastructure and investment, placing serious demands on the limited human and financial resources of the claimant States involved.

Thus, while the expansive maritime claims of the Pacific small island States are undoubtedly a vital resource and opportunity, they also represent a major oceans governance and management burden to the claimant States. The scale and nature of the problem is thrown into stark relief by the example of Kiribati which has a total landmass of 811km² but a claimed EEZ of approximately 3.3 million km².

The Geopolitics of Fish

Despite the vast maritime claims of the Pacific small island States, and their substantial sovereign rights, it has predominantly been the developed DWFNs who have reaped the most benefit from the tuna resources. Historically, DWFNs have caught 90 per cent of the WCPO tuna, despite approximately 41 per cent of the catch originating from within the EEZs of Pacific island States. Furthermore, it has been argued that the level of access fees delivered to the Pacific island States from DWFNs, and thus the “resource rent” of the fishery, is in the order of three to six per cent – this is considered low in global terms.68

As noted, many Pacific island States are heavily reliant on the region’s tuna fisheries. Development aid also forms a significant component of national budgets. This represents a key area of vulnerability and a lever that can be applied, particularly by DWFNs to secure preferential terms of access. DWFNs have proved adept at playing Pacific island States off against one another and using aid as a political lever to undermine regional moves to enhance cooperative management and enforcement measures. It has been argued that this tied aid provides a false benefit. FFA members could be substantially better off if they were to act collectively to raise access fees to, arguably, a more equitable level, even if development aid were entirely withdrawn.69 It is also the case that the lack of transparency that occurs in some bilateral access negotiations exacerbates opportunities for corruption which seriously undermines both revenue collection efforts and fisheries management controls.70

For example, for many years Japan steadfastly refused to entertain multilateral negotiations with the Pacific island States as a group, instead preferring to negotiate on a bilateral basis.71 This strategy puts DWFNs in a strong negotiating position and provides an opportunity for development aid to be applied as a tool to secure advantageous fisheries access terms, thereby eroding the effectiveness of collective regional approaches.72 As a key distant-water fishing power in the region, accounting for up to three-quarters of the foreign fishing fleet at its peak, Japan was able to wield great power in bilateral negotiations.73 This translated into a lack of transparency over access fees and

69 Peterson, 2003, p. 221 and 227.
resistance to, for example, the establishment of minimum conditions for entry into EEZs on the part of DWFN vessels and the creation of a vessel monitoring scheme.

Pacific island States are also disadvantaged by the impacts of globalisation on the tuna industry. In essence their key economic advantage is access to fish stocks. However, small island developing States are ill-equipped to be at the high-risk, technically challenging and capital-intensive end of the fishing industry. This has led to the failure of numerous attempts to establish domestic tuna fishing operations. The Pacific island States are effectively excluded from the more profitable “downstream” end of the tuna business as these activities, especially the distribution and retail components of the commodity chain, remain dominated by multinational corporations.\(^7\)

A profound asymmetry exists between Pacific island States and the DWFNs in negotiations on these issues. Combating overfishing, reducing overall fishing effort and securing improved returns pits small island developing States against some of the richest, most powerful and most capable states in the world, especially in terms of negotiating experience.

**Challenges on the Outer Continental Shelf**

As noted above, a number of Pacific island States have made submissions relating to areas of continental shelf beyond the limits of their 200nm EEZs to the CLCS, which may well result in substantial increases in the extent of their maritime jurisdictions. These areas are likely to include potentially highly valuable living resources and marine biodiversity. These resources and the marine habitats that they exist in, such as seamounts and hydrothermal vents are potentially vulnerable. This means that the coastal States which confirm their rights over outer continental shelf areas face oceans governance responsibilities and challenges as well as resource exploitation opportunities.\(^7\)

Serious management issues may well arise on the outer continental shelf as a consequence of the fact that coastal State sovereign rights over these continental shelf areas will be overlain by areas of high seas. This layering of jurisdictions is potentially problematic and it is possible that competing and potentially conflicting uses will arise. For example bioprospecting may conflict with fishing interests on sea mounts.\(^7\) A significant challenge also exists in these areas in distinguishing between marine scientific research on the one hand and commercial bioprospecting on the other.\(^7\) The fact that outer

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\(^7\) Schurman, 1998, pp. 115-120.

\(^7\) As noted, Article 77 of UNCLOS provides coastal States with sovereign rights regarding the exploration for and exploitation of resources on the continental shelf, including the outer continental shelf. Although Article 77 is silent with regard to balancing obligations to protect and conserve the resources of the continental shelf (in contrast, for example, to Article 61 dealing with the EEZ), there does exist a general obligation for coastal States to “protect and preserve the marine environment” UNCLOS, Article 192.

\(^7\) See, for example, Mossop, 2007, pp. 285-287.

\(^7\) Ibid. pp. 292-296.
continental shelf areas are, by their very nature, remote and peripheral, will tend to exacerbate these regulatory and enforcement challenges.

**Realising Opportunities**

The key means for the Pacific island States to address the significant challenges facing them in the maritime arena is through regional or sub-regional cooperation. This is especially the case in tackling resource conflicts in the context of the tremendous asymmetries in political and economic power inherent between these small developing states and developed DWFNs. The Pacific island States have already proved relatively successful in adopting cooperative multilateral approaches to the maritime challenges facing them, especially through the development of regional and sub-regional organisations and arrangements such as the Pacific islands Forum Fisheries Agency (FFA), which was established in 1979 and is based in Honiara in the Solomon Islands. The FFA was set up with the express purpose of facilitating the management, conservation and use of the tuna resources within member State’s EEZs and beyond.\(^78\) The past 30 years has demonstrated a remarkable level of cooperation within the Pacific islands region that has substantially increased the capacity of the region to manage their fisheries and successfully negotiate with far more powerful DWFNs – most particularly the US and Japan.

A good example of the benefits of cooperation is provided by how the sensitive issue of maritime boundaries has been handled. A consequence of the enormous extension of maritime claims seawards, notably through the introduction of the EEZ regime, has been the creation of a multitude of ‘new’ maritime political boundaries as States 400nm distant from one another abruptly find themselves to be maritime neighbours with potentially overlapping claims to maritime jurisdiction. Furthermore, in the context of outer continental shelf entitlements, maritime neighbours in need of the delimitation of a seabed boundary may hypothetically be in excess of 700nm distant from one another.\(^79\) Given the relatively recent nature of the maritime claims in question, many of which have only been advanced since the 1970s onwards, it is unsurprising that the maritime political map of the world is far short of completion. Indeed, less than 50 per cent of potential maritime boundaries worldwide have been even partially delimited.\(^80\)

In this context, the Pacific islands region has been successful in the establishment of a mechanism of dealing with undelimited maritime boundaries. In the South Pacific less than 30 per cent of potential maritime boundaries

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\(^78\) The FFA comprises 17 member governments: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. See: <http://www.ffa.int/>

\(^79\) Prescott and Schofield, 2005, p. 216.

\(^80\) Ibid. pp.217-218.
boundaries have been even partially delimited. Accordingly, it might have been anticipated that maritime boundaries would prove highly problematic. This has not, however, proved to be the case. Territorial and maritime jurisdictional disputes are not completely absent from the region – for example, France and Vanuatu dispute sovereignty over Matthew [Umaenupne] and Hunter [Umaeneag] Islands and delimitation between Fiji and Tonga is complicated by Tonga’s claims in respect of the so-called “Tongan Box” arising from that country’s Royal Proclamation of 1887 and Tonga’s claims to North and South Minerva Reefs [Teleki Tokelau and Teleki Tonga]. Nonetheless, such disputes have not proliferated as they have elsewhere, for example in Southeast and East Asia.

Furthermore, disputes among the Pacific island States over transboundary resources such as tuna have largely been circumvented and the monitoring and protection of the stocks concerned has been enhanced. This has been achieved through agreement facilitated by the FFA, on interim maritime boundaries based on equidistance lines. These theoretical maritime boundaries are used to determine the distribution of a substantial portion of the access fees derived from the US treaty discussed above, on the basis of the distribution of catches in the maritime zones these theoretical boundaries define.

Another major breakthrough illustrating the benefits of cooperation can be seen in the areas of surveillance and enforcement. The Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region of 1992 broke new ground, particularly in respect of cooperative maritime surveillance and enforcement. This agreement provides flexible arrangements for cooperation in fisheries surveillance among Pacific island States. Of particular note are the Niue Treaty’s provisions enabling vessels and personnel of one State the authority to enforce the laws of another State so scarce surveillance assets can be deployed most efficiently.

Similarly, some limited efforts at increased cooperation have been made in the area of regional ocean governance where steps have been taken towards the drafting of a Pacific Islands Regional Oceans Policy (PIROP). The goal of PIROP is stated to be “to ensure the future sustainable use of our Ocean and its resources by Pacific islands communities and external partners.” In order to achieve this, PIROP is guided by five principles: improving understanding of the ocean, sustainably developing and managing the use of ocean resources,
maintaining the health of the ocean, promoting the peaceful use of the ocean, and creating partnerships and promoting cooperation. Implementation is, however, still at a relatively early stage.  

Perhaps the best example of strong regional cooperation can be seen in the recent developments of the Vessel Day Scheme (VDS) by the Parties to the Nauru Agreement (PNA). The previous PNA fishing vessel cap had become increasingly seen as a blunt and not particularly effective tool at promoting conservation and development interests. Problems emerged as the fishing vessel cap made it difficult for new fleets to enter the fishery that were more advantageous to PNA interests. In 2007, the Pacific island members of the PNA reviewed the vessel cap and agreed to introduce a limit on the number of purse seine days. Vessel days could be sold in such a way as to maximise economic returns, enable greater fleet flexibility and better conservation outcomes.

In response, the VDS was introduced in December 2007 and aimed to constrain catches to sustainable levels and increase benefits from fishing activities through access fees paid by DWFNs. The VDS replaced the broad purse seine vessel number cap with a set number of days that can be fished in the combined EEZs of the PNA. Vessel days are then allocated to each PNA country. This enabled PNA to account for effort creep by differentiating fishing days based on vessel length and allowing for vessel formulas to be modified over time to account for changes in technology and efficiency.

The VDS increases the opportunities for a Pacific island State to take a more proactive approach to developing their own fisheries and progressing their own aspirations. For example, a key objective of the VDS is to create competition between DWFN vessels to purchase fishing days at the maximum price. As the VDS has been introduced, allowances have been made for vessels that fish under an internal arrangement within the PNA membership that supports regional development aspirations; the FSM Arrangement.

Simultaneously, the Pacific island members of the PNA updated their requirements for licensed foreign fishing vessels and introduced new licensing
terms and conditions that set important precedents in coastal State management of tuna fisheries. Firstly, the PNA agreed that they would collectively apply additional licensing terms and conditions that introduced new conservation and management requirements within their EEZs. However, more significantly, the PNA agreed that they would also prohibit licensed fishing vessels from fishing in two high seas pockets surrounded by PNA EEZs north and northeast of Papua New Guinea (see Figure 1).

Vessels may continue fishing on the high seas if they wish, but in so doing they may not fish in PNA EEZs. As such it does not breach the freedom of the seas that is enshrined in Article 87 of the LOSC. However, given that the PNA EEZs contain the most productive fishing grounds, it is a powerful tool and quickly raised concerns amongst DWFN interests. Despite significant opposition from DWFN interests, the PNA signed the Third Implementing Arrangement (3IA, 2008) in Palau in May 2008.

This cooperation between PNA members subsequently supported FFA member interests within the WCPFC. In 2006 and 2008, key arguments between coastal States and DWFN were partly resolved in practice (though not clearly in principle) through the incorporation of the PNA VDS and the PNA 3IA into WCPFC conservation and management measures. These decisions indirectly recognised the primacy of coastal States over management of fisheries within their EEZs and framed conservation and management for high seas fisheries in the context of existing management practised in EEZs. A key example of this was the endorsement of the PNA 3IA’s closure of the high seas pockets and its inclusion within the WCPFC bigeye and yellowfin conservation and management measure (CCM 2008-01). It is highly unlikely that the WCPFC would have agreed to close any high seas areas without their hand being previously forced by the PNA.

However, while there was significant progress on the issue of EEZ/high seas compatibility, disagreements have increased over the application of regional measures to archipelagic waters and there continues to be significant challenges in terms of the application and implementation of the WCPFC in practice.

The Way Forward

Recent achievements within the WCPFC, particularly the bigeye and yellowfin conservation measure, illustrate the strength of the FFA and PNA sub-group when they negotiate collectively. Similarly, the achievements of the FFA and PNA management, control and development mechanisms demonstrate their potential to manage fishing efforts throughout their area in the direct interests of their members, and to extend their influence beyond their immediate boundaries. While neither the current VDS nor WCPFC conservation and management measures yet meet conservation requirements as recommended by
the WCPFC Scientific Committee, they provide the initial framework – due almost entirely to the drive of the FFA and PNA.

With regard to living resources, especially the key economic resource tuna, it is vital to Pacific Island interests that they are able to sustain this high level of cooperation and build upon the progress achieved to date. While some success has been realised in improving the returns to Pacific island States from the tuna fisheries, there is still a widespread perception that more can be achieved. Distant water fishing fleets depend upon access to EEZs for their financial viability. No surface fishing fleet, distant water or locally based, can profitably operate pole and line or purse seine vessels without some access to waters under national jurisdiction. 88

Achieving higher returns calls for enhanced cooperation and sophisticated collective development strategies. The history of bilateral negotiations between DWFNs and Pacific island States demonstrates that bilaterals play to DWFN strengths and enable DWFN to “divide and conquer” island States. 89 In contrast, when Pacific island States act multi-laterally, they do so from a position of strength, because together they control access to the fishing grounds which are crucial to the economic viability of distant water fishing operations. An example of this is the US multi-lateral treaty which has historically generated higher access fees and cooperation for Pacific island States than equivalent bilateral agreements. 90

The collective achievements of the Pacific island States, and further developments within the PNA, place the region in a good position to improve the benefits from the tuna fisheries. However, the success or failure of the cooperative arrangements and strategies depend upon the effective participation of members and their ability to implement decisions within the national context. The inability of some members to effectively participate and buy in to regional decisions undermines the ability of the entire region to sustainably manage and benefit from its maritime resources.

Collective regional strategies require the informed will of all parties involved. This requires that all Pacific island States have the national capacity and confidence to determine and pursue their own national interest, within their shared vision of a collective strategy. The compromises and balancing required in any collective strategy require members to make choices in the full

89 Good discussions of some of the issues in bilateral negotiations between DWFN and Pacific island States can be found in: Schurman, 1998; Tarte, 1999; Barclay and Cartwright, 2006.
90 The Treaty on Fisheries Between the Governments of Certain Pacific island States and the Government of the United States was negotiated multi-laterally and signed in 1988. The Treaty governs access for USA purse seiners to all FFA member’s EEZs and includes catch reporting and other requirements. Access fees from the USA multi-lateral are far higher (exceeding 20% of landed value) than bilateral access fees with other DWFNs (3.5% to 6%).
knowledge of their strategic context. Otherwise, nice words and silences simply provide a paper-thin veneer with little real substance underneath.

This chapter suggests that the region consider further developing national capacity building and engagement strategies in order to sustain and build the regional cooperation that is necessary to meet development and conservation objectives. Such a strategy would work in-country within particularly vulnerable Pacific island States and build the capacity of governments to analyse, strategise, prepare for, participate and implement regional agreements and development strategies.

Similarly, ongoing implementation challenges in monitoring, control and surveillance undermine the sustainability of key tuna stocks and require increased regional cooperation and coordination responses, supported by national capacity-building programs if they are to be overcome. The current development by the FFA of a Regional MCS Strategy will have positive impacts on both the sustainability of key fisheries and on the economic returns for the Pacific island States.

Successful implementation of the various new economic and management strategies all depend upon Pacific island States protecting their offshore sovereign rights over their various and extensive maritime areas. While this is likely to require some sharing of benefits and costs to make it attractive to all parties, the increased value in the fishery should ensure increased benefit to all stakeholders beyond any short term small gain from a go-it-alone strategy. Achieving success in this context will require pragmatic regionalism and the development of collective environmental and economic goals.

The authors note the strong progress achieved by the GEF funded Pacific Islands Oceanic Fisheries Management Project and its regional programmes. The authors suggest that similar focus and energy could also be directed at in-country national capacity building strategies that focus more heavily on national interests, within the umbrella of shared regional visions.
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