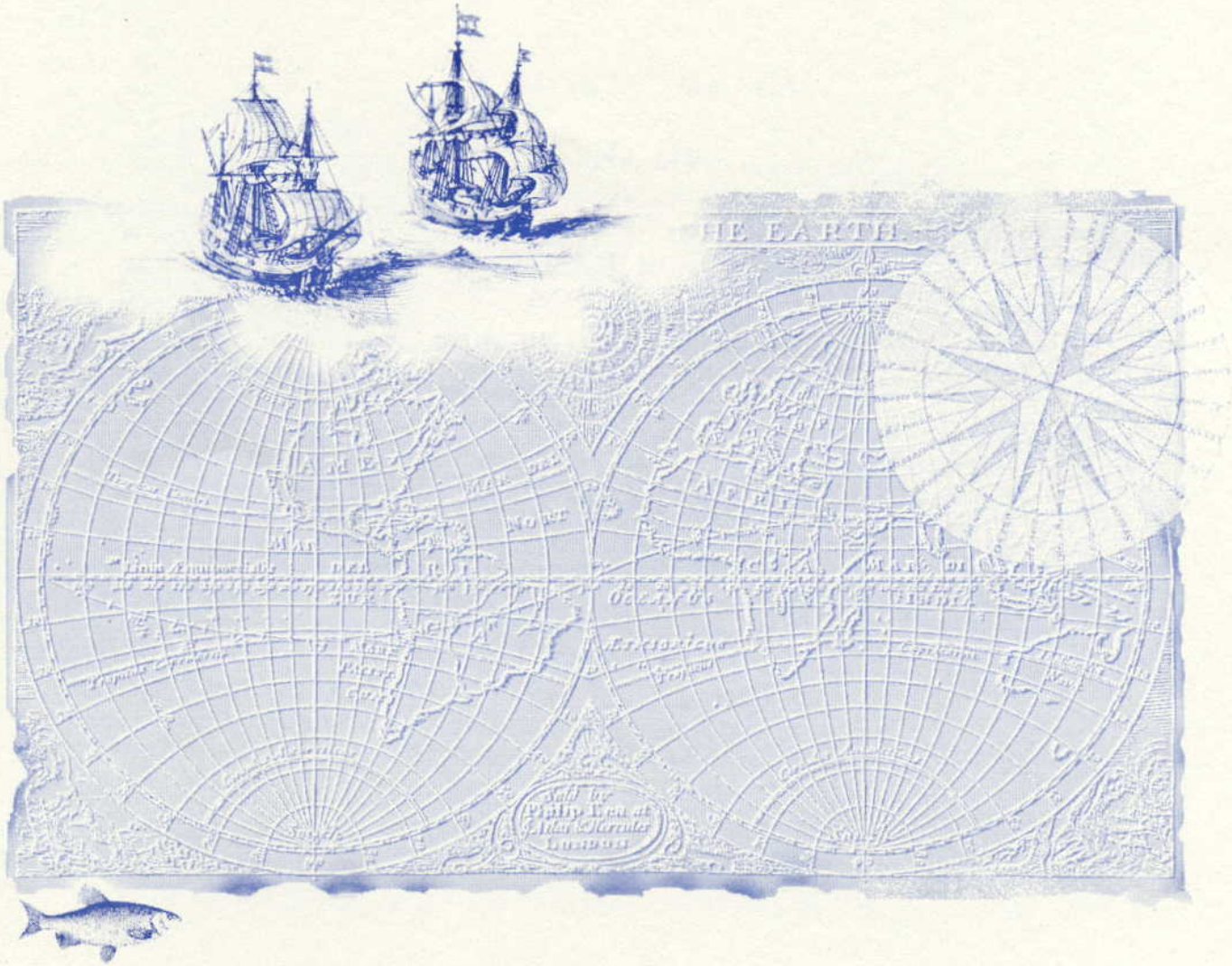
United States Department of State
Bureau of Oceans and International Environmental and Scientific Affairs

Limits in the Seas

No. 119

Maritime Boundary: United States - Niue



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LIMITS IN THE SEAS

No.119

MARITIME BOUNDARY:

UNITED STATES -NIUE

July 30, 1997

Office of Oceans Affairs
Bureau of Oceans and International
Environmental and Scientific Affairs
U.S. Department of State

INTRODUCTION

On May 13, 1997, in Wellington, New Zealand, the Governments of the United States and Niue signed a treaty delimiting a maritime boundary between their respective territories in the South Pacific.[1] The 279-mile boundary runs in a general east-west direction with the United States islands of American Samoa to the north, and Niue to the south, of the boundary.[2]

The treaty is subject to ratification by each side and will enter into force upon the exchange of instruments of ratification. The text of the treaty and an illustrative map, which is a part of the treaty, is at Annex 1 of this study.

BACKGROUND

On March 1, 1977, the United States enacted the Fishery Conservation and Management Act of 1976, which established a 200-mile fisheries zone contiguous to the territorial sea of the United States, including the territorial sea of American Samoa. Given the proximity of neighboring foreign territories to American Samoa, the United States could not extend its fisheries jurisdiction off American Samoa 200 miles, as permitted under international law. To the north of American Samoa is Tokelau (New Zealand); to the east is the Cook Islands; to the south, Niue; to the southwest, Tonga; and, to the west, Western Samoa. Thus, subject to boundary treaties with these countries, the United States in 1977 unilaterally claimed fishery limits based on equidistant lines calculated between the baselines of the American Samoa islands and the baselines of these neighboring countries.[3] In 1983, these limits defined the United States exclusive economic zone (EEZ).[4] A Federal Register notice was re-published in 1995.[5]

In 1980 the United States concluded maritime boundary treaties with the Cook Islands and with New Zealand, on behalf of Tokelau.[6] Maritime boundaries have yet to be agreed on with Tonga and Western Samoa. Map 1 depicts the three negotiated maritime boundaries, and the U.S. claimed exclusive economic zone limits in the area where the remaining two boundaries will be required.

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[1] Ambassador Josian Beeman (U.S. Embassy in Wellington) signed for the United States; Prime Minister Frank Lui signed for Niue.

[2] Unless otherwise noted, all mileage in this study is nautical miles One nautical mile equals 1,852 meters.

[3] The limits are described in the Federal Register, Vol. 42, No. 44, March 7, 1977.

[4] Presidential Proclamation No. 5030, March 10, 1983. The text of the Proclamation can be found in Robert W. Smith, *Exclusive Economic Zone Claims,* Martinus Nijhoff Publishers, 1985, pp. 467-69. [Smith, *EEZ Claims*], and J. Ashley Roach and Robert W. Smith, *United States Responses to Excessive Maritime Claims,* Martinus Nijhoff Publishers, 1996, pp. 517-18.

[5] *Federal Register,* Vol. 60, No. 163, August 23, 1995.

[6] The boundary treaty with the Cook Islands was signed June 11, 1980, and entered into force September 8, 1983. The treaty with New Zealand (Tokelau) was signed December 2, 1980, and entered into force on September 3, 1983. See *Limits in the Seas* No. 100, December 30, 1983 for the text and analyses of the treaties.

Niue first claimed an exclusive economic zone by Act No. 38, effective April 1, 1978.[7] It reiterated its EEZ claim when it enacted the Territorial Sea and Exclusive Economic Zone Act 1996 (Act No. 220), which entered into force April 7, 1997. In addition to this maritime boundary treaty, Niue will need to negotiate boundaries with the Cook Islands and with Tonga.

ANALYSIS OF 1997 MARITIME BOUNDARY TREATY

The negotiations: In the early 1980s, the Governments of the United States and Niue agreed, in principle, that a maritime boundary should be established based on an equidistant line calculated from all relevant territories. No special circumstances exist in the boundary region. The water is deep in this area and no particular resource issue was identified that required a deviation from an equidistant line.

Both Parties recognized, however, that new coastal geodetic positioning survey work was required for both the U.S. American Samoan islands and Niue in order to update existing information, and to place all relevant coastlines on a common datum. Technical work was conducted by both sides during the 1980s and early 1990s. Positioning of coastal areas was placed on the more accurate World Geodetic System 1984 ("WGS 84") and the North American Datum 1983 ("NAD 83"). For the purposes of calculating this boundary, both datums were considered identical.

Prior to signing the treaty, the political status of Niue was addressed. Niue is in free association with New Zealand. On internal matters it is self-governing. Niue conducts its foreign affairs in conjunction with New Zealand. Niue has declared and does manage its exclusive economic zone. The United States requested, and received, confirmation from New Zealand that the Government of Niue had the competence to enter into this agreement with the United States. The text of New Zealand's note is reproduced at Annex 2 to this study.

The treaty text: The treaty comprises seven articles. Article I states that the sole purpose of this treaty is to establish a maritime boundary in the South Pacific between the U.S. (with respect to American Samoa) and Niue. Article II sets out the technical parameters of the treaty stating that for the purpose of this treaty the North American Datum 1983 ("NAD 83") and the World Geodetic System 1984 ("WGS 84") are considered identical. And, the article states that, for the purpose of illustration, a map depicting the boundary is attached to the treaty. This is the same map that is attached to a copy of the treaty found in Annex 1 of this study.

The 19 turning and terminal points defining the maritime boundary are listed in Article III of the treaty. In Article IV the United States and Niue agree that north of the boundary Niue will not, and south of the boundary the United States will not, "claim or exercise for any purpose sovereignty, sovereign rights, or jurisdiction with respect to the waters or seabed or subsoil."

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[7] For the text of this 1978 law, see Smith, *EEZ Claims*, pp. 335-40.

In Article V the two sides agree that the establishment of the boundary will not affect or prejudice either side's position with "respect to the rules of international law relating to the law of the sea, including those concerned with the exercise of sovereignty, sovereign rights, or jurisdiction with respect to the waters or seabed or subsoil."

The two sides in Article VI agree that any dispute arising from the interpretation or application of the treaty will be resolved by negotiation or other peaceful means agreed upon by the Parties. Finally, Article VII provides that the treat will enter into force on the date of the exchange of instruments of ratification.

The boundary: As noted, the boundary contains 19 turning and terminal points and has a length of 279.1 miles. Along its entire length it is equally distant from the coasts of the United States (the islands of American Samoa) and Niue, which comprises one island. Table 1 provides information on the identification of influencing coastal points, distance from the coastal points to the boundary, and the distance between boundary turning points. Table 2 gives information of the location of the pertinent coastal points that affect the course of the equidistant line.

In the east, the boundary begins as the tri-junction point almost 200 miles distant from the Rose Island (U.S.), Niue, and Palmerston Atoll (Cook Islands). In the west, the boundary terminates as the tri-junction point about 151 miles from an unnamed U.S. island just off the southwest point of the American Samoan Tutuila Island, Niue, and a point on the Tongan island of Niuatoputapu. In addition to the two U.S. points affecting the terminal boundary points, one other U.S. coastal point, situated on Ta'u Island, is influential in determining the course of the equidistant line. A total of 16 different points along the Niue coastline affect the termination of the boundary.

Table 1
United States - Niue Maritime Boundary

Turning point	Influencing Coastal Points (see Table 2 for listing of coastal points)			Distance: Land to Boundary	Distance to next boundary point.
	United States	Niue	Third	(n. miles)	(n. miles)
1. *	US-1	N-1	C-1	199.3	1.13
2.	US-1	N-1	N-2	198.5	27.33
3.	US-1	N-2	N-3	180.2	39.36
4.	US-1	N-3	N-4	158.4	18.41
5.	US-1	N-4	N-5	150.6	10.53
6.	US-1	N-5	N-6	147.1	39.31
7.	US-1	N-6	N-7	140.0	25.55
8.	US-1	N-7	N-8	141.2	2.30
9.	US-1	N-8	US-2	141.5	2.54
10.	US-2	N-8	N-9	141.2	13.27
11.	US-2	N-9	N-10	140.2	19.02
12.	US-2	N-10	US-3	141.0	3.19
13.	US-3	N-10	N-11	140.5	5.89
14.	US-3	N-11	N-12	139.9	22.67
15.	US-3	N-12	N-13	139.6	8.82
16.	US-3	N-13	N-14	140.4	3.04
17.	US-3	N-14	N-15	140.8	31.98
18.	US-3	N-15	N-16	148.9	4.81
19. **	US-3	N-16	T-1	150.7	
	US=United States N=Niue C=Cook Islands T=Tonga				Total=279.1
* Trijunction point equidistant from the United States, Niue, and the Cook Islands. ** Trijunction point equidistant from the United States, Niue, and Tonga.					

Table 2
Coastal Points that Influence Course of the Maritime Boundary

Pt.	Description	Geographic Coordinate NAD 83 (WGS 84)*	Pt.	Description	Geographic Coordinate NAD 83 (WGS 84)*
United States (US)			**Niue (N) – cont'd**		
US-1	Rose Island-reef	14° 33' 30" S 168° 09' 31" W	N-4	NTS 57	18° 57' 49.6" S 169° 48' 25.3" W
US-2	Tau Island (Siufaalele Pt.)	14° 16' 25.6" S 169° 29' 23.9" W	N-5	NTS 58	18° 57' 47.3" S 169° 48' 28.0" W
US-3	Unnamed island (sw of Tutuila Island)	14° 22' 28.1" S 170° 45' 30.9" W	N-6	NTS 59	18° 57' 47.3" S 169° 48' 39.0" W
			N-7	NTS 60	18° 57' 27.9" S 169 49' 07.1" W
Cook Islands (C)			N-8	NTS 61	18° 57' 12.7" S 169° 50' 18.3" W
C-1	Palmerston Atoll	18° 03' 22" S 163° 11' 58" W	N-9	NTS 62	18° 57' 10.8" S 169° 50' 28.6" W
			N-10	NTS 01	18° 57' 08.1" S 169° 50' 57.0" W
Tonga (T)			N-11	NTS 03	18° 57' 08.4" S 169° 51' 02.6" W
T-1	NTTG 36 (Niuatoputapu)	15° 56' 45.3" S 173° 44' 52.8" W	N-12	NTS 04	18° 57' 08.8" S 169° 51' 06.9" W
			N-13	NTS 05	18° 57' 28.1" S 169° 52' 24.7" W
Niue (N)			N-14	NTS 06	18° 57' 30.1" S 169° 52' 31.2" W
N-1	NTS 53	18° 58' 06.9" S 169° 48' 14.7" W	N-15	NTS 07	18° 57' 32.9" S 169° 52' 39.7" W
N-2	NTS 55	18° 57' 56.8" S 169° 48' 19.6" W	N-16	NTS 08	18° 57' 35.1" S 169° 52' 43.5" W
N-3	NTS 56	18° 57' 53.3" S 169° 48' 21.8" W	* NAD 83 = North American Datum 1983 WGS 84 = World Geodetic System 1984		

The distance from the boundary to the respective coastlines ranges from 199.3 miles at the U.S.-Niue-Cook Islands trijunction point to 139.6 miles, at boundary turning point 15, between the unnamed U.S. island off Tutuila Island and two points on Niue. The longest boundary segments are 3-4 and 6-7, each slightly over 39 miles in length.

ANNEX I

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF NIUE ON THE DELIMITATION OF A MARITIME BOUNDARY

The Government of the United States of America and the Government of Niue, hereinafter the Parties;

Desiring to strengthen the bonds of friendship between the two Parties;

Recalling the tradition of co-operative relations and close ties between the people of the United States of America and the people of Niue;

Noting the Fishery Conservation and Management Act 1976 and the Presidential Proclamation No. 5030 of March 10, 1983, establishing an exclusive economic zone for the United States of America;

Noting Act No. 220 of April 7, 1997, establishing an exclusive economic zone for Niue;

Desirous of establishing the maritime boundary between the United States of America (American Samoa) and Niue, on the basis of equidistance;

Have agreed as follows:

Article I

The sole purpose of this treaty is to establish, in accordance with international law, the maritime boundary between the United States of American (American Samoa) and Niue.

Article II

The geodetic and computational bases used to determine this boundary are the North American Datum 1983 ("NAD 83") and the World Geodetic System 1984 ("WGS 84") which, for the purpose of this boundary treaty, are considered identical. For the purpose of illustration only, the boundary line has been drawn on a map annexed to this treaty.

Article III

The maritime boundary between the United States of America (American Samoa) and Niue shall be determined by geodesics connecting the following coordinates:

Point	Latitude (South)	Longitude (West)
1.	17° 33' 18"	166° 38' 31"
2.	17° 32' 55"	166° 39' 38"
3.	17° 23' 55"	167° 06' 38"
4.	17° 10' 49”	167° 45' 27"
5.	17° 04' 39"	168° 03' 34"
6.	17° 01' 07"	168° 13' 55"
7.	16° 47' 47"	168° 52' 31"
8.	16° 39' 00"	169° 17' 32"
9.	16° 38' 12"	169° 19' 47"
10.	16° 38' 01"	169° 22' 25"
11.	16° 37' 04"	169° 36' 12"
12.	16° 35' 39"	169° 55' 57"
13.	16° 36' 16"	169° 59' 13"
14.	16° 37' 23"	170° 05' 15"
15.	16° 41' 39"	170° 28' 26"
16.	16° 43' 16"	170° 37' 28"
17.	16° 43' 49"	170° 40' 35"
18.	16° 49' 33"	171° 13' 23"
19.	16° 50' 25"	171° 18' 19"

Article IV

On the side of the maritime boundary adjacent to the United States of America (American Samoa), the Government of Niue shall not, and on the side of the maritime boundary adjacent to Niue, the Government of the United States of America (American Samoa) shall not, claim or exercise for any purpose sovereignty, sovereign rights, or jurisdiction with respect to the waters or seabed or subsoil.

Article V

The maritime boundary established by this treaty shall not affect or prejudice in any manner either party's position with respect to the rules of international law relating to the law of the sea, including those concerned with the exercise of sovereignty, sovereign rights, or jurisdiction with respect to the waters or seabed or subsoil.

Article VI

Any dispute concerning the interpretation or application of this agreement shall be resolved by negotiation or other peaceful means as may be agreed upon by the parties.

Article VII

This treaty shall be subject to ratification and shall enter into force on the date of the exchange of instruments of ratification.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this treaty.

Done in duplicate at Wellington, New Zealand this 13th day of May 1997.

For the Government of
The United states of America:

Josiah Beeman
(U.S. Ambassador to Wellington)

For the Government of
Niue:

Frank Lui
(Prime Minister)

ANNEX 2

Diplomatic Note from the Government of New Zealand to the Government of the United States

The Ministry of Foreign Affairs and Trade presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's Note No. 128-95 of 18 December 1995 seeking confirmation from the New Zealand Government that the Government of Niue has the requisite competence to conclude on its own behalf a treaty establishing a maritime boundary between the United States Territory of American Samoa and Niue and to undertake all of the rights and obligations specified therein.

The Ministry wishes to confirm to the Embassy that the Government of Niue has the requisite competence to conclude such a treaty on its own behalf.

The Ministry of Foreign Affairs and Trade avails itself of this opportunity to renew to the Embassy of the United States the assurances of its highest consideration.

Ministry of Foreign Affairs and Trade
Wellington
5 March 1996

United States Maritime Limits Adjacent to American Samoa

------ U.S. – Cook Islands maritime boundary

Signed: June 11, 1980
Entered into force: September 8, 1983

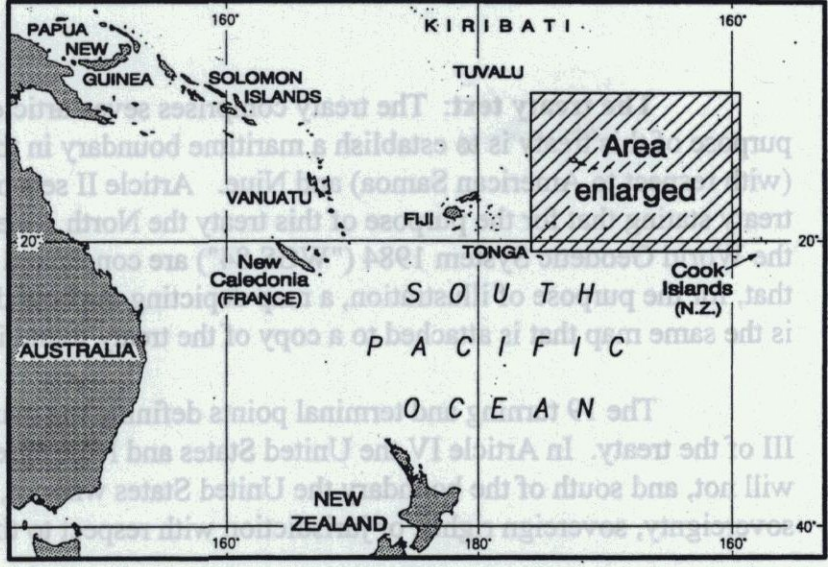
-·-·-·- U.S. – New Zealand maritime boundary

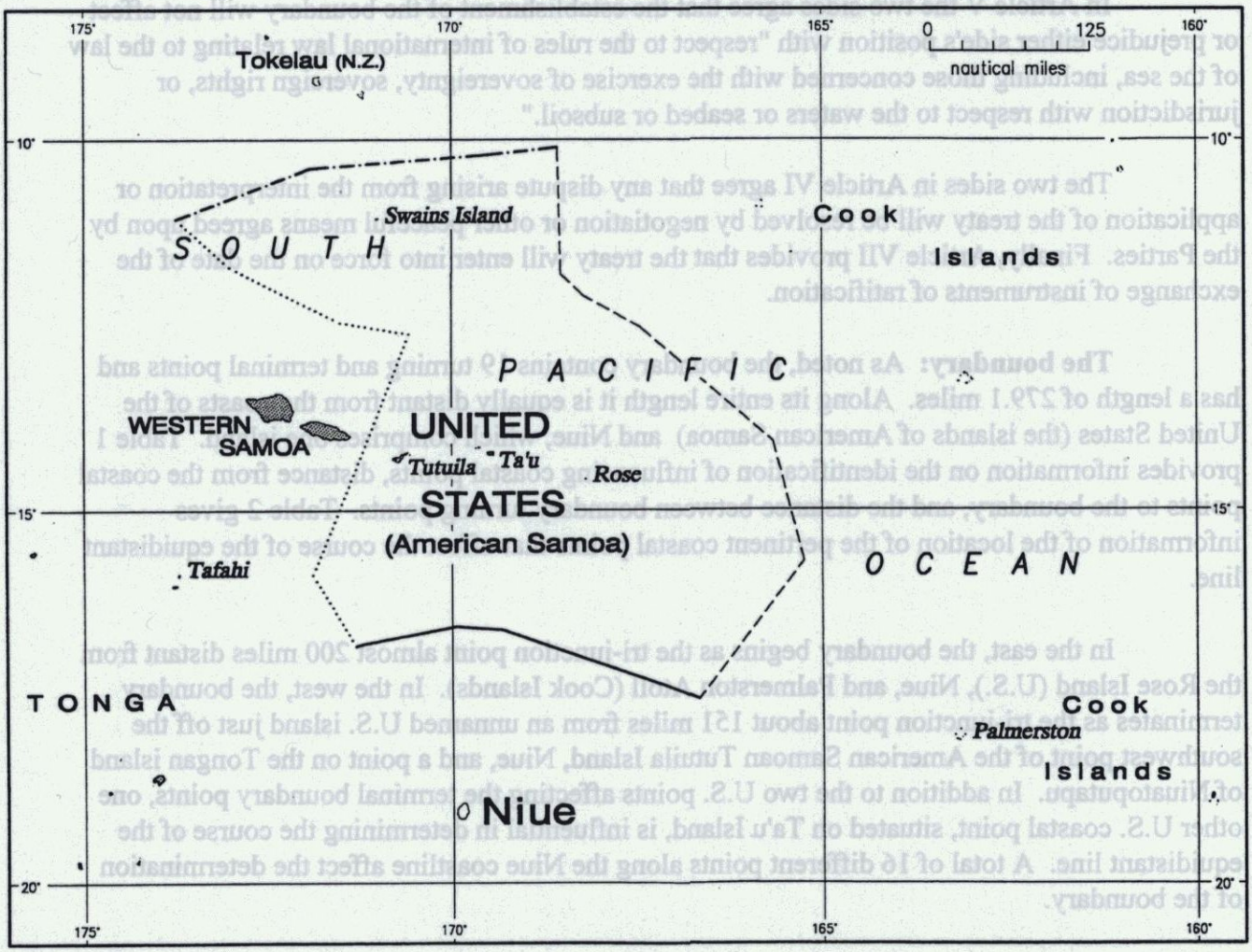
Signed: December 2, 1980
Entered into force: September 3, 1983

——— U.S. – Niue maritime boundary

Signed: May 13, 1997

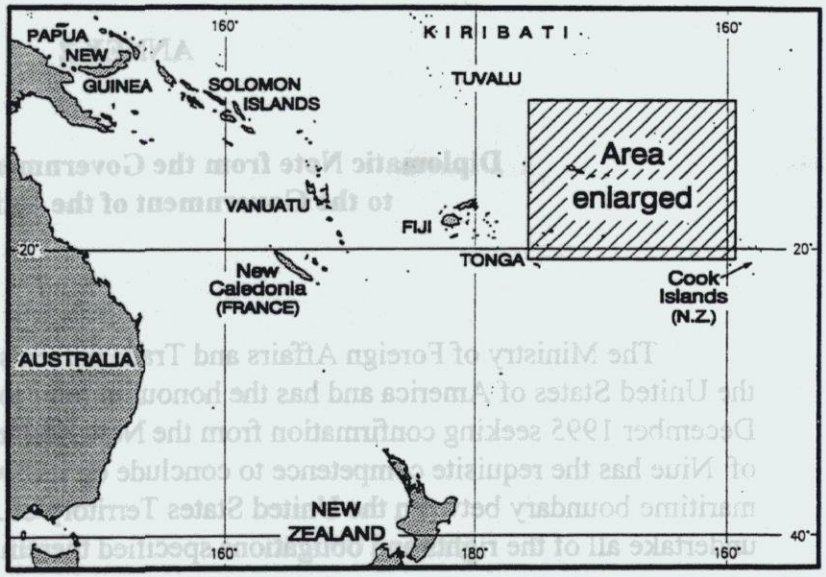
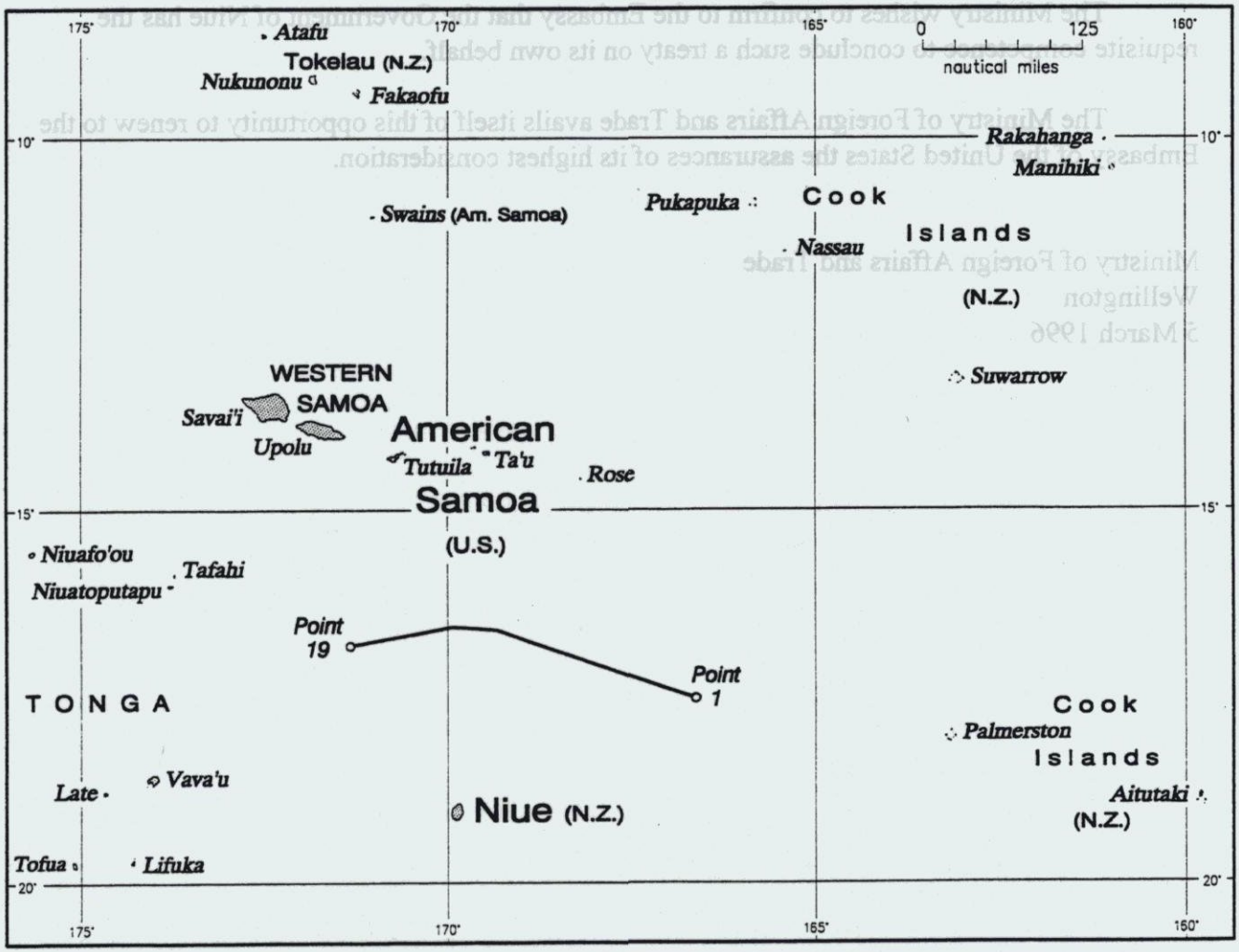
····· U.S. Exclusive Economic Zone Limit





United States - Niue Maritime Boundary

Map annexed to the Treaty between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary

Names are not necessarily authoritative

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