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Last Updated: 03/18/2025

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

August 12, 1983

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM P. CLARK *WPC*

SUBJECT: Ratification of Treaty with the Cook Islands on
Friendship and Delimitation of the Maritime
Boundary

Attached at Tab A for your signature is the instrument of ratification, in duplicate, of the Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands, signed at Rarotonga on June 11, 1980.

The Treaty is necessary to delimit the continental shelf of overlapping claims of jurisdiction resulting from the establishment of a 200 nautical mile fishery conservation zone off the coasts of American Samoa in accordance with the Fishery Conservation and Management Act of 1976. The Treaty will further United States foreign policy interests in the area by establishing a basis for friendly relations with the Cook Islands and by promoting our relations with New Zealand and with the small island nations of the South Pacific.

You will recall that, after much delay, the Senate gave its advice and consent to ratification of this Treaty on June 21, 1983 by a vote of 94 to 4.

RECOMMENDATION:

That you sign the instrument of ratification at Tab A.

Approve _____ Disapprove _____

Attachment:

Tab A Instrument of Ratification (in duplicate)

NSC # 8304960

171550

1130

00113

FC001

TN005

FC001 IN

THE WHITE HOUSE
WASHINGTON

Dick Darnan, 8/12

For administrative
reasons it is important
that this be dated
8/15 or 8/16.

John P. ...

MEMORANDUM

NATIONAL SECURITY COUNCIL

August 10, 1983

ACTION

MEMORANDUM FOR WILLIAM P. CLARK

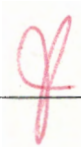
FROM: DAVID N. LAUX SUBJECT: Ratification of Treaty with the Cook Islands on
Friendship and Delimitation of the Maritime
Boundary

Attached at Tab A for transmission to the President is the instrument of ratification, in duplicate, of the Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands, signed at Rarotonga on June 11, 1980.

The Senate gave its advice and consent to ratification on June 21, 1983.

RECOMMENDATION:

That you sign the memorandum to the President at Tab I.

Approve  _____

Disapprove _____

Attachments:

Tab I Clark memo to President

Tab A Instrument of Ratification (in duplicate)

Tab II State memo



DEPARTMENT OF STATE

Washington, D.C. 20520

July 18, 1983

MEMORANDUM FOR MR. WILLIAM P. CLARK
THE WHITE HOUSE

Subject: Ratification of Treaty with the
Cook Islands on Friendship and
Delimitation of the Maritime
Boundary

Attached for signature by the President is the instrument of ratification, in duplicate, of the Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands, signed at Rarotonga on June 11, 1980.

The Senate gave its advice and consent to ratification on June 21, 1983.

The Treaty is necessary to delimit the continental shelf and overlapping claims of jurisdiction resulting from the establishment of a 200 nautical mile fishery conservation zone off the coasts of American Samoa in accordance with the Fishery Conservation and Management Act of 1976. The Treaty will further United States foreign policy interests in the area by establishing a basis for friendly relations with the Cook Islands and by furthering our interest in a peaceful, secure, and stable South Pacific.

Covey
Charles Hill
Executive Secretary

Attachment:

Instrument of
ratification,
in duplicate

RONALD REAGAN

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

The Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands was signed at Rarotonga on June 11, 1980; and

The Senate of the United States of America by its resolution of June 21, 1983, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, ratify and confirm the Treaty.

IN TESTIMONY WHEREOF, I have signed this instrument of ratification and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington

our Lord one thousand
nine hundred eighty-three
and of the Independence
of the United States of
America the two hundred
eighth.

By the President:

Secretary of State

RONALD REAGAN

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

The Treaty between the United States of America and the Cook
Islands on Friendship and Delimitation of the Maritime Boundary
between the United States of America and the Cook Islands was signed
at Rarotonga on June 11, 1980; and

The Senate of the United States of America by its resolution of June 21, 1983, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, ratify and confirm the Treaty.

IN TESTIMONY WHEREOF, I have signed this instrument of ratification and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington

our Lord one thousand
nine hundred eighty-three
and of the Independence
of the United States of
America the two hundred
eighth.

By the President:

Secretary of State

96TH CONGRESS }
2d Session }

SENATE

{ EXECUTIVE
P

TREATY WITH THE COOK ISLANDS ON
FRIENDSHIP AND DELIMITATION OF
THE MARITIME BOUNDARY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY BETWEEN THE UNITED STATES OF AMERICA
AND THE COOK ISLANDS ON FRIENDSHIP AND DELIMITATION
OF THE MARITIME BOUNDARY BETWEEN THE UNITED
STATES OF AMERICA AND THE COOK ISLANDS, SIGNED AT
RAROTONGA JUNE 11, 1980



SEPTEMBER 3, 1980.—Treaty was read the first time and, together with
the accompanying papers, referred to the Committee on Foreign
Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

59-118 O

WASHINGTON: 1980

LETTER OF TRANSMITTAL

THE WHITE HOUSE, September 2, 1980.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, the Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention.

This treaty is necessary to delimit the continental shelf and overlapping claims of jurisdiction resulting from the establishment of a 200 nautical mile fishery conservation zone off the coasts of American Samoa in accordance with the Fishery Conservation and Management Act of 1976, and the establishment of a 200 nautical mile zone by the Cook Islands.

In this connection, the status of four islands has also been resolved.

The treaty satisfies the interest of the people of the Cook Islands that their claim to sovereignty over these four islands, inhabited by citizens of the Cook Islands and represented in the legislative and administrative branches of the Cook Islands Government, will not be encumbered by a conflicting and largely unsupported claim by the United States. The treaty meets the United States interest in securing a maritime boundary in accordance with equitable principles. It furthers U.S. foreign policy interests in the area by establishing a basis for friendly relations with the Cook Islands and by furthering our interest in a peaceful, secure, and stable South Pacific.

I am transmitting for the information of the Senate a diplomatic note from the Government of New Zealand confirming that the Cook Islands has the competence to enter into this treaty and that New Zealand has no objection to its doing so and a separate exchange of letters between the United States and the Cook Islands, signed on June 11, 1980, setting forth the understanding of each side that U.S. flag fishing vessels and foreign vessels supplying the canneries in American Samoa will not be barred on a discriminatory basis from seeking licenses to fish in the Cook Islands' 200 mile zone.

I recommend that the Senate give early consideration to the treaty and give its advice and consent to ratification.

JIMMY CARTER.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, August 25, 1980.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to the transmittal thereof to the Senate for its advice and consent to ratification, the Treaty between the United States of America and the Cook Islands on Friendship and Delimitation of the Maritime Boundary between the United States of America and the Cook Islands, signed at Rarotonga June 11, 1980. The treaty establishes the maritime boundary between the United States off the coast of American Samoa and the Cook Islands, and it resolves the status of four islands in the Northern Cook Islands.

The establishment of a 200 nautical mile fishery conservation zone off the coasts of the United States, including American Samoa, pursuant to the Fishery Conservation and Management Act of 1976, and of a 200 nautical mile zone off the coasts of the Cook Islands, created the need for agreement on a maritime boundary in order to avoid enforcement problems and to provide for certainty in the development of resources in the area where such 200 nautical mile zones overlap.

In connection with establishing the maritime boundary it was necessary to address and resolve the issue of the sovereignty over the islands of Pukapuka (Danger), Manihiki, Rakahanga, and Penrhyn. The U.S. claims to these particular islands arises out of occasional 19th century visits to the islands by American whalers, and by execution of guano bonds under the Guano Islands Act of 1856. The U.S. claim has virtually no legal merit and is not supported by any other nation. The United States has never exercised governmental jurisdiction over these islands. They were first administered by Great Britain and then placed under the administration of New Zealand in 1901. The islands are inhabited. These islands and these people have historically been an integral part of the Cook Islands and are represented in the Cook Islands Government. Continued assertion of these claims is inconsistent with the U.S. interest of maintaining friendly relations with the peoples of the South Pacific.

Another matter which had to be addressed in connection with this treaty is the political status of the Cook Islands Government. The Cook Islands is in free association with New Zealand. It is internally self governing, and it may unilaterally declare its independence from New Zealand at any time. It exercises its foreign affairs competence in conjunction with New Zealand. It declared and does manage its 200 nautical mile zone. In this regard, it was necessary to address the question of whether it was legally possible for the United States to

enter into a treaty relationship with a political entity other than a fully sovereign state.

After internal analysis, which included a review of the organic documents establishing the Cook Islands Government and of historical precedents, we concluded that the only limitation on the foreign affairs capacity of the Cook Islands Government existed in favor of New Zealand. We requested and received confirmation from the Government of New Zealand that the Cook Islands has the competence to enter into this treaty and that New Zealand has no objection to its so doing. The diplomatic note of the Government of New Zealand concerning this matter is attached. I recommend that it be transmitted to the Senate for its information.

Officials met in Rarotonga October 12-14, 1979 to begin negotiations. A representative of the Government of American Samoa participated as a member of the U.S. delegation to these talks. A draft agreement was negotiated at that time. Thereafter, the geographic coordinates of the maritime boundary were established through diplomatic channels. The treaty was signed on June 11, 1980 on the occasion of the first visit by a U.S. Ambassador to the Cook Islands.

The operative portion of the treaty consists of seven articles.

Article I sets out the specific geographic coordinates which define the maritime boundary. This boundary is approximately 566.4 nautical miles in length, and consists of 24 segments. At its closest point it is 119.8 nautical miles from the nearest American Samoa island. This is a negotiated maritime boundary developed on the basis of principles deemed by the parties to be equitable in view of the relevant geographic circumstances.

Article II sets out the geodetic and computational bases used for describing the boundary, including the particular charts from which calculations were made in establishing the boundary.

Article III describes the legal effect of the maritime boundary. It provides that the Cook Islands shall not claim or exercise for any purpose sovereign rights or jurisdiction over the waters or seabed and subsoil on the United States side of the boundary and, that on the Cook Islands' side of the boundary, the United States will not claim or exercise for any purpose sovereign rights or jurisdiction over the waters or seabed and subsoil.

Article IV is a disclaimer provision which makes clear that agreement on the maritime boundary does not constitute recognition of the jurisdiction that the other party may claim to exercise in the delimited area beyond that otherwise recognized by each party to the treaty. In this connection the United States and the Cook Islands maintain different positions concerning the breadth of the territorial sea and the nature of jurisdiction that may be exercised within the 200 nautical mile zone. Article IV is intended to preserve the respective positions of each party.

Article V is an express statement that the United States by virtue of this treaty recognizes the sovereignty of the Cook Islands over the islands of Penrhyn, Pukapuka (Danger), Manihiki and Rakahanga.

Article VI is a general cooperation provision. It is in the U.S. interest to develop a close, friendly and cooperative relationship with the Cook Islands by promoting direct government to government contacts and in particular by promoting contacts between American Samoa and the Cook Islands.

VII

political entity other than a

led a review of the organic Government and of historical negotiation on the foreign affairs. There existed in favor of New Zealand confirmation from the Government of New Zealand that it be transmitted

12-14, 1979 to begin negotiations of American Samoa participation to these talks. A draft. Thereafter, the geographic coordinates were established through diplomatic exchange on June 11, 1980 on the occasion of the Cook Islands. It consists of seven articles. Geographic coordinates which define the boundary is approximately 566.4 nautical miles. At its closest point to the nearest American Samoa island. The boundary was developed on the basis of a suitable in view of the relevant

computational bases used for particular charts from which the boundary. of the maritime boundary. It does not claim or exercise for any over the waters or seabed and the boundary and, that on the United States will not claim or rights or jurisdiction over the

which makes clear that agreement does not constitute recognition of the right to exercise in the delimited area by each party to the treaty. In the Cook Islands maintain difference of the territorial sea and the exercised within the 200 nautical miles to serve the respective positions of

that the United States by virtue of the Cook Islands over the (r), Manihiki and Rakahanga. provision. It is in the U.S. cooperative relationship with government to government contacts between American

Article VI provides that the English language text is the official treaty text and that the treaty will enter into force on the date of the exchange of instruments of ratification.

In connection with the negotiation of the treaty, discussions took place relating to the fishery resources within the Cook Islands' 200 nautical mile zone. The attached letters set forth the positions and the understandings of the two sides. The United States sought and received assurances that U.S. flag fishing vessels and foreign vessels supplying the canneries in American Samoa will not be barred on a discriminatory basis from seeking licenses to fish in the Cook Islands' 200 mile zone. I recommend that this separate exchange of letters be transmitted to the Senate for its information.

I recommend that this treaty be transmitted to the Senate as soon as possible for its advice and consent to ratification.

Respectfully submitted.

WARREN CHRISTOPHER.

TREATY BETWEEN THE UNITED STATES OF AMERICA
AND THE COOK ISLANDS ON FRIENDSHIP AND DE-
LIMITATION OF THE MARITIME BOUNDARY BE-
TWEEN THE UNITED STATES OF AMERICA AND
THE COOK ISLANDS

The two governments,

Desiring to strengthen the existing bonds of friendship between
their countries and in particular between the peoples of the Cook
Islands and American Samoa,

Noting the Territorial Sea and Exclusive Economic Zone Act 1977
of the Cook Islands,

Noting the Fishery Conservation and Management Act of 1976 of
the United States of America,

Desiring to establish a maritime boundary between the United
States of America and the Cook Islands,

Noting that the United States of America has maintained a claim
to sovereignty over the islands of Pukapuka (Danger), Manihiki,
Rakahanga and Penrhyn,

Noting further that this claim has not been recognized by the Cook
Islands,

Have agreed as follows:

ARTICLE I

The maritime boundary between the United States of America and
the Cook Islands shall be determined by the geodetic lines connecting
the following coordinates:

Latitude (South)	Longitude (West)
17°33'28"	166°38'35"
16°45'30"	166°01'39"
16°23'29"	165°45'11"
16°18'30"	165°41'29"
16°08'42"	165°34'12"
15°44'58"	165°16'36"
15°38'47"	165°12'03"
15°14'04"	165°18'29"
15°00'09"	165°22'07"
14°03'30"	165°37'20"
13°44'56"	165°58'44"
13°35'44"	166°09'19"
13°21'25"	166°25'42"
13°14'03"	166°34'03"
13°11'25"	166°37'02"
12°57'51"	166°52'21"
12°41'22"	167°11'01"
12°28'40"	167°25'20"
12°01'55"	168°10'24"
11°43'53"	168°27'58"
11°02'40"	168°29'21"
10°52'31"	168°29'42"
10°12'49"	168°31'02"
10°12'44"	168°31'02"
10°01'26"	168°31'25"

ARTICLE II

The geodetic and computational bases used are the World Geodetic System, 1972 (WGS 72) and the following charts and aerial plans:

Rose Island—U.S. Chart Nos. 83484, 6th ed., March 26/77, 1:80,000—local datum;
 Manua Islands—U.S. Chart Nos. 83484, 6th ed., March 26/77, 1:80,000—corrected for WGS 72, 1980;
 Swains Island—U.S. Chart Nos. 83484, 6th ed., March 26/77, 1:40,000—astro datum 1939;
 Palmerston Atoll—Aerial Plan No. 1036/8h (N.Z. Lands & Survey), 1:50,400, 1976—local datum;
 Suvarrow (Suvorov) Atoll—Aerial Plan No. 1036/8E (N.Z. Lands & Survey), 1:50,400, 1975—local datum;
 Nassau Island—Aerial Plan No. 1036/8B (N.Z. Lands & Survey), 1:148,000, 1974—local datum;
 Pukapuka (Danger) Island—Aerial Plan No. 1036/8D (N.Z. Lands & Survey), 1:28,800, 1975—local datum;
 Niue—British Admiralty Chart BA 968, 16th ed., March 1979, 1:150,000, corrections to 1979—local datum;
 Fakaofa Atoll—Aerial Plan No. 1036/7C (N.Z. Lands & Survey), 1:18,000, 1974—local datum.

ARTICLE III

On the side of the maritime boundary adjacent to the Cook Islands, the United States of America shall not, and on the side of the maritime boundary adjacent to American Samoa the Cook Islands shall not, claim or exercise for any purpose sovereign rights or jurisdiction over the waters or seabed and subsoil.

ARTICLE IV

The maritime boundary established by this Treaty shall not affect or prejudice in any manner any government's position with respect to the rules of international law concerned with the exercise of jurisdiction over the waters or seabed and subsoil or any other matter relating to the law of the sea.

ARTICLE V

The United States of America recognizes the sovereignty of the Cook Islands over the islands of Penrhyn, Pukapuka (Danger), Manihiki and Rakahanga.

ARTICLE VI

The Government of the United States of America and the Government of the Cook Islands, in the spirit of peace and friendship existing between the two governments and peoples, agree to cooperate with a view to promoting social and economic development in the Cook Islands, and to work toward the advancement of the South Pacific region as a whole. To these ends, they shall promote discussions between their peoples and appropriate government entities, in particular between the peoples of the Cook Islands and American Samoa.

ARTICLE VII

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

DONE in duplicate, in the English and Maori languages, of which English shall be the authentic text, at Rarotonga this eleventh day of June, 1980.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Anne C. Martinelli

FOR THE GOVERNMENT OF THE
COOK ISLANDS:

Thomas Davis

EMBASSY OF NEW ZEALAND,
Washington, D.C., January 31, 1980.

The Embassy of New Zealand presents its compliments to the Department of State and has the honour to refer to its Note of 1 November 1979 in which inter alia it was requested that the Government of New Zealand indicate its position with respect to the Cook Islands Government's competence to undertake all rights specified in the recently negotiated Treaty of Friendship and Maritime Boundary Delimitation with the Cook Islands and New Zealand, within the context of the free association relationship between the Cook Islands and New Zealand.

As indicated by the New Zealand delegation during the negotiations the New Zealand Government confirms the competence of the Cook Islands Government to undertake the obligations and exercise the rights under the draft treaty. The New Zealand Government therefore has no objection to the conclusion of the proposed treaty directly between the Government of the United States and the Government of the Cook Islands. The Embassy also wishes to advise that the New Zealand Government would not propose to have any role in the ratification of the treaty other than perhaps as a channel through which the instruments of ratification might be conveyed.

The Embassy of New Zealand takes this opportunity to renew to the Department of State the assurances of its highest consideration.

ASSISTANT SECRETARY OF STATE,
OCEANS AND INTERNATIONAL ENVIRONMENTAL
AND SCIENTIFIC AFFAIRS,
Washington, D.C., June 11, 1980.

MR. JAMES GOSSELIN,
Secretary of External Affairs,
Department of External Affairs,
Rarotonga, Cook Islands.

DEAR SIR: This is in reference to your letter of today's date concerning discussions between representatives of our two governments which took place October 17-19, 1979, in Rarotonga concerning matters

relating to the fishery resources within the 200-mile zone of the Cook Islands.

I understand the importance the Government of the Cook Islands attaches to the development of its fishery resources for the benefit of the people of the Cook Islands.

I appreciate the assurances contained in your letter. I also appreciate that the Cook Islands Government understands the concerns which we have expressed and that these concerns will be taken into account in the implementation of the policy set forth in your letter.

For our part, the Government of the United States of America fully intends to promote close cooperation between the Cook Islands authorities and United States flag vessel owners and operators. We will also be pleased to facilitate such cooperation between Cook Islands authorities and vessels supplying the canneries in American Samoa. We have transmitted a copy of your letter and this reply to the American Samoan authorities and would expect that they will take the same view.

Sincerely,

THOMAS R. PICKERING.

GOVERNMENT OF THE COOK ISLANDS,
DEPARTMENT OF EXTERNAL AFFAIRS,
Rarotonga, Cook Islands, June 11, 1980.

MR. THOMAS R. PICKERING,
*Assistant Secretary of State, Oceans and International Environmental
and Scientific Affairs, Department of State, Washington, D.C.*

DEAR SIR: I have the honour to refer to recent discussions between representatives of our two Governments which took place October 17-19, 1979, in Rarotonga concerning matters relating to the fisheries resources within the Cook Islands Exclusive Economic Zone, and to the information exchanged in the course of those talks.

I understand the importance attached by the people of American Samoa to seeing that third country vessels operating from American Samoa have continued access to the fisheries resources which they have fished in the past, including the fishery resources of the Cook Islands Exclusive Economic Zone. I also understand the desire on the part of the Government of the United States of America to ensure that its flag vessels which may desire to fish in the Cook Islands zone will be permitted to do so.

It is the policy of the Government of the Cook Islands to consider applications for fishery licenses in its Exclusive Economic Zone on a non-discriminatory basis without special regard for any particular country or its vessels. I can assure you that with respect to United States flag vessels or vessels supplying canneries in American Samoa, application for licenses to fish in the Cook Islands Exclusive Economic Zone will be treated in accordance with this policy.

The Government of the Cook Islands regards it as desirable to establish a cooperative relationship with United States flag vessels wishing to fish in the Cook Islands Zone and with the vessels supplying the canneries on American Samoa. We would therefore welcome discussions along these lines and would expect that the Government of the United States, as appropriate, would facilitate such cooperative relationships.

Yours sincerely,

JAMES GOSSELIN,
Secretary of External Affairs.

NATIONAL SECURITY COUNCIL

Aug. 10, 1983

To: Adm. John Poindexter

From: David Laux *DL*

Subject: The 4 Pacific Island Treaties*

John - You will recall these 4 treaties are one package. They have been hung up in the Senate for 3 or 4 years because of objections by Senator Helms and a few others.

In June we received a request from Senator Baker for a Presidential letter to get them scheduled for a floor vote. We provided this in time for the President to tell Australian Prime Minister Hawke it had been done when he called on the President.

Baker then managed to get them voted on (approved 94 to 4) the following week.

Important: For administrative reasons, it will be best if the President can sign these on Monday or Tuesday Aug. 15 or 16.*

Can I be notified when they are signed?

*and not before then.

Thanks,

DL
Dave

National Security Council
The White House

RECEIVED

System #

Package#

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4960
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83 AUG 11 P 5: 24

SEQUENCE TO

HAS SEEN

DISPOSITION

Executive Secretary

John Poindexter

Bud McFarlane

Jacque Hill

Judge Clark

John Poindexter

Executive Secretary

NSC Secretariat

Situation Room

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X

3

D

I-Information

A-Action

R-Retain

D-Dispatch

N-No further Action

DISTRIBUTION

cc: VP Meese Baker Deaver Other

COMMENTS

Should be seen by:

(Date/Time)

NSC/S PROFILE

UNCLASSIFIED

ID 8304960

RECEIVED 18 JUL 83 17

TO CLARK FROM HILL, C

DOCDATE 18 JUL 83

KEYWORDS: NEW ZEALAND

TREATIES

MARITIME

SUBJECT: RATIFICATION OF TREATY W/ COOK ISLANDS ON FRIENDSHIP & DELIMITATION
OF THE MARITIME BOUNDARY

ACTION: PREPARE MEMO FOR CLARK

DUE: 21 JUL 83 STATUS S FILES

FOR ACTION

FOR CONCURRENCE

FOR INFO

LAUX

SIGUR

THOMPSON

CHILDRESS

LEVINE

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LEHMAN, C

NORTH

COMMENTS

REF# 8321961

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NSCIFID

(M /)

ACTION OFFICER (S)	ASSIGNED	ACTION REQUIRED	DUE	COPIES TO
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Clark	X	8/4	Final to Pres for Sig	
Pres	P	8/12	For sig	
	C	8/18	Pres Sgd Treaty	
			(Per WH o/c:)	

DISPATCH

W/ATTCH FILE (C) 104

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

TR

August 12, 1983

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM P. CLARK *wpc*SUBJECT: Ratification of Treaty with New Zealand on the
Delimitation of the Maritime Boundary Between
the United States and Tokelau

Attached at Tab A for your signature is the instrument of ratification, in duplicate, of the Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between Tokelau and the United States of America signed at Atafu on December 2, 1980.

The Senate gave its advice and consent to ratification on June 21, 1983.

The Treaty satisfies the interest of the peoples of Tokelau and New Zealand that the Tokelauan claim to sovereignty over three of these islands, inhabited by natives of Tokelau and administered by New Zealand, will not be encumbered by a conflicting but inferior claim by the United States. The Treaty also protects United States interests and promotes friendly relations with New Zealand and with Tokelau.

Attachment:

Tab A Instrument of Ratification (in duplicate)

171553

1130

00113

F0009

TN005

FG006-12

NSC# 8304956

THE WHITE HOUSE
WASHINGTON

Dick Darman, 8/12

For administrative
reasons it is important
that this be dated
8/15 or 8/16.

John Poindexter

MEMORANDUM

NATIONAL SECURITY COUNCIL

August 10, 1983

ACTION

MEMORANDUM FOR WILLIAM P. CLARK

FROM: DAVID N. LAUX *DL*SUBJECT: Ratification of Treaty with New Zealand on the
Delimitation of the Maritime Boundary between
the United States and Tokelau

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The Senate gave its advice and consent to ratification on June 21, 1983.

RECOMMENDATION:

That you sign the memorandum to the President at Tab I.

Approve _____ Disapprove _____

Attachments:

Tab I Clark memo to President
Tab A Instrument of Ratification (in duplicate)
Tab II State memo



United States Department of State

Washington, D.C. 20520

July 18, 1983

MEMORANDUM FOR MR. WILLIAM P. CLARK
THE WHITE HOUSE

Subject: Ratification of Treaty with New Zealand on the Delimitation of the Maritime Boundary between the United States and Tokelau

Attached for signature by the President is the instrument of ratification, in duplicate, of the Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between Tokelau and the United States of America signed at Atafu on December 2, 1980.

The Senate gave its advice and consent to ratification on June 21, 1983.

The Treaty satisfies the interest of the peoples of Tokelau and New Zealand that the Tokelauan claim to sovereignty over three of these islands, inhabited by natives of Tokelau and administered by New Zealand, will not be encumbered by a conflicting but inferior claim by the United States. The Treaty protects United States interests by confirming United States sovereignty over Swains Island, which had been claimed by Tokelau, and by securing a maritime boundary in accordance with equitable principles. It further serves the United States foreign policy interests in the area by promoting friendly relations with New Zealand and with Tokelau.

Conroy

Charles Hill
Executive Secretary

Attachment:

Instrument of
ratification,
in duplicate

RONALD REAGAN

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

The Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between Tokelau and the United States of America was signed at Atafu on December 2, 1980; and

The Senate of the United States of America by its resolution of June 21, 1983, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, ratify and confirm the Treaty.

IN TESTIMONY WHEREOF, I have signed this instrument of ratification and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington

our Lord one thousand
nine hundred eighty-three
and of the Independence
of the United States of
America the two hundred
eighth.

By the President:

Secretary of State

RONALD REAGAN

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

The Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between Tokelau and the United States of America was signed at Atafu on December 2, 1980; and

The Senate of the United States of America by its resolution of June 21, 1983, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, ratify and confirm the Treaty.

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DONE at the city of Washington

our Lord one thousand
nine hundred eighty-three
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of the United States of
America the two hundred
eighth.

By the President:

Secretary of State

TREATY WITH NEW ZEALAND ON THE DELIM-
ITATION OF THE MARITIME BOUNDARY BE-
TWEEN THE UNITED STATES OF AMERICA AND
TOKELAU

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY BETWEEN THE UNITED STATES OF AMERICA
AND NEW ZEALAND ON THE DELIMITATION OF THE MARI-
TIME BOUNDARY BETWEEN THE UNITED STATES OF AMERICA
AND TOKELAU, SIGNED AT TOKELAU ON DECEMBER 2, 1980



MARCH 25, 1981.—Treaty was read the first time and, together with the
accompanying papers, referred to the Committee on Foreign Relations
and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

79-118 9

WASHINGTON: 1981

LETTER OF TRANSMITTAL

THE WHITE HOUSE,
March 25, 1981.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between the United States of America and Tokelau. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Treaty.

This Treaty is necessary to settle the overlapping claims of jurisdiction resulting from the establishment of a 200 nautical mile fishery conservation zone off the coasts of American Samoa in accordance with the Fishery Conservation and Management Act of 1976, and the establishment by the Government of New Zealand of a 200 nautical miles with New Zealand and with Tokelau.

In this connection, the status of three Tokelauan islands has also been resolved and the sovereignty of the United States over Swains Island has been confirmed.

The Treaty satisfies the interest of the peoples of Tokelau and New Zealand that the Tokelauan claim to sovereignty over three of these islands, inhabited by natives of Tokelau and administered by New Zealand, will not be encumbered by a conflicting but inferior claim by the United States. The Treaty protects United States interests by confirming United States sovereignty over Swains Island, which had been claimed by Tokelau, and by securing a maritime boundary in accordance with equitable principles. It further serves the United States foreign policy interests in the area by promoting friendly relations with New Zealand and with Tokelau.

I am transmitting for the information of the Senate a document from the Government of New Zealand vesting the Tokelauan signatories with authority to sign the Treaty on behalf of New Zealand and a separate exchange of letters between the United States and New Zealand, signed on December 2, 1980, setting forth the understanding of each side that New Zealand is willing to make arrangements for United States fishermen to have access to the Tokelauan 200 mile zone.

I recommend that the Senate give early consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

LETTER OF TRANSMITTAL

DEPARTMENT OF STATE,
Washington, March 12, 1981.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, for transmittal to the Senate for its advice and consent to ratification, the Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between the United States of America and Tokelau, signed at Tokelau on December 2, 1980. The Treaty establishes the maritime boundary between American Samoa and Tokelau, resolves the status of three Tokelauan islands in the area, and confirms United States sovereignty over Swains Island.

The establishment of a 200 nautical mile fishery conservation zone off the coasts of the United States, including American Samoa, pursuant to the Fishery Conservation and Management Act of 1976, and the establishment by New Zealand of a 200 nautical mile zone off the coasts of Tokelau, created the need for agreement on a maritime boundary in order to avoid enforcement problems and to provide for certainty in the development of resources in the area where such 200 nautical mile zones overlap.

In connection with establishing the maritime boundary it was necessary to address and resolve the issue of sovereignty over the islands of Atafu, Nukunono, and Fakaofo which together comprise Tokelau. These atolls have a total population of 166 people and a land area of four square miles. In 1889 the British declared a protectorate over the islands and formally annexed them in 1916. In 1925 administration of the Tokelau islands was transferred from the United Kingdom to the Dominion of New Zealand, which has continued to administer them. Formal sovereignty was transferred from the United Kingdom to New Zealand in 1948.

It was not until 1939 that the United States disputed the British or New Zealand claims of sovereignty. The United States based its claim to the islands on mapping and on the Guano Act of 1856. Two of the islands were included in a United States Guano Mining Bond in 1856 but there is no indication that an American company has ever mined the islands for guano. The United States has never occupied these islands or exercised governmental jurisdiction over them. Measured against the longstanding United Kingdom/New Zealand claim, the United States claim to these islands has no substantial basis under applicable principles of international law. Our claim is not supported by any other nation, including our closest allies. Continued assertion of these claims is inconsistent with the United States inter-

**TREATY BETWEEN THE UNITED STATES OF AMERICA
AND NEW ZEALAND ON THE DELIMITATION OF THE
MARITIME BOUNDARY BETWEEN TOKELAU AND THE
UNITED STATES OF AMERICA**

The two Governments,

Recalling the responsibilities exercised by New Zealand in respect of Tokelau pending the exercise by the people of Tokelau of their right to self-determination in accordance with the United Nations declaration on the granting of independence to colonial countries and peoples;

Noting that the people of Tokelau, acting through the General Fono of Tokelau, have requested that New Zealand take steps to delimit the maritime boundaries of Tokelau;

Desiring to strengthen the existing bonds of friendship between Tokelau and the United States and in particular between the peoples of Tokelau and American Samoa;

Noting the Tokelau Territorial Sea and Exclusive Economic Zone Act 1977;

Noting the Fishery Conservation and Management Act 1976 of the United States of America;

Noting that the United States of America has maintained a claim to sovereignty over the islands of Atafu, Nukunonu, and Fakaofo and that this claim has not been recognised by New Zealand or the people of Tokelau;

Noting further that the United States exercises sovereignty over and administers the islands known as American Samoa and that New Zealand has not claimed or administered as part of Tokelau any of the islands presently administered by the United States as part of American Samoa;

Desiring to establish a maritime boundary between Tokelau and the United States of America have agreed, with the concurrence of the people of Tokelau, as follows:

ARTICLE I

The maritime boundary between Tokelau and the United States shall be determined by the geodetic lines connecting the following coordinates:

Latitude (South)

10°01'28"
10°07'52"
10°10'18"
10°15'17"
10°17'50"
10°25'28"
10°46'15"
11°02'17"

Longitude (West)

168°31'25"
169°46'50"
170°16'10"
171°15'32"
171°50'58"
172°11'01"
173°03'53"
173°44'48"

ARTICLE II

The geodetic and computational bases used for determining the coordinate values in Article I are the World Geodetic System, 1972 (WGS 72) and the following charts and aerial plans:

- Charts published by the National Ocean Survey of the United States of America; NOS No. 83484, 6th edition, March 26, 1977;
- Charts published by the Defense Mapping Agency of the United States of America; DMAHTC No. 83473, 7th edition, May 8, 1976;
- Aerial Plans published by the Department of Lands and Survey of New Zealand; No. 1036/7C, 1974; No. 1036/7B2, 1974; No. 1036/8d, 1975.

ARTICLE III

On the side of the maritime boundary adjacent to Tokelau, the United States of America shall not claim or exercise for any purpose sovereign rights or jurisdiction over the waters or seabed and subsoil. On the side of the maritime boundary adjacent to American Samoa there shall not be claimed or exercised for any purpose in respect to Tokelau sovereign rights or jurisdiction over the waters or seabed and subsoil.

ARTICLE IV

The maritime boundary established by this Treaty shall not affect or prejudice in any manner either Government's position with respect to the rules of international law concerned with the exercise of jurisdiction over the waters or seabed and subsoil or any other matter relating to the Law of the Sea.

ARTICLE V

The United States recognises that sovereignty over the islands of Atafu, Nukunonu and Fakaofu, together comprising Tokelau is vested in the people of Tokelau and is exercised on their behalf by the Government of New Zealand pending an act of self-determination in accordance with the Charter of the United Nations.

ARTICLE VI

The Government of the United States of America and the Government of New Zealand, in the spirit of peace and friendship existing between the two Governments and peoples agree to cooperate with a view to promoting social and economic development in accordance with the wishes of the peoples of Tokelau and American Samoa, and to work towards the advancement of the South Pacific region as a whole. To these ends they shall promote discussions between their peoples and appropriate Government entities, in particular between the peoples of Tokelau and American Samoa.

ARTICLE VIII

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

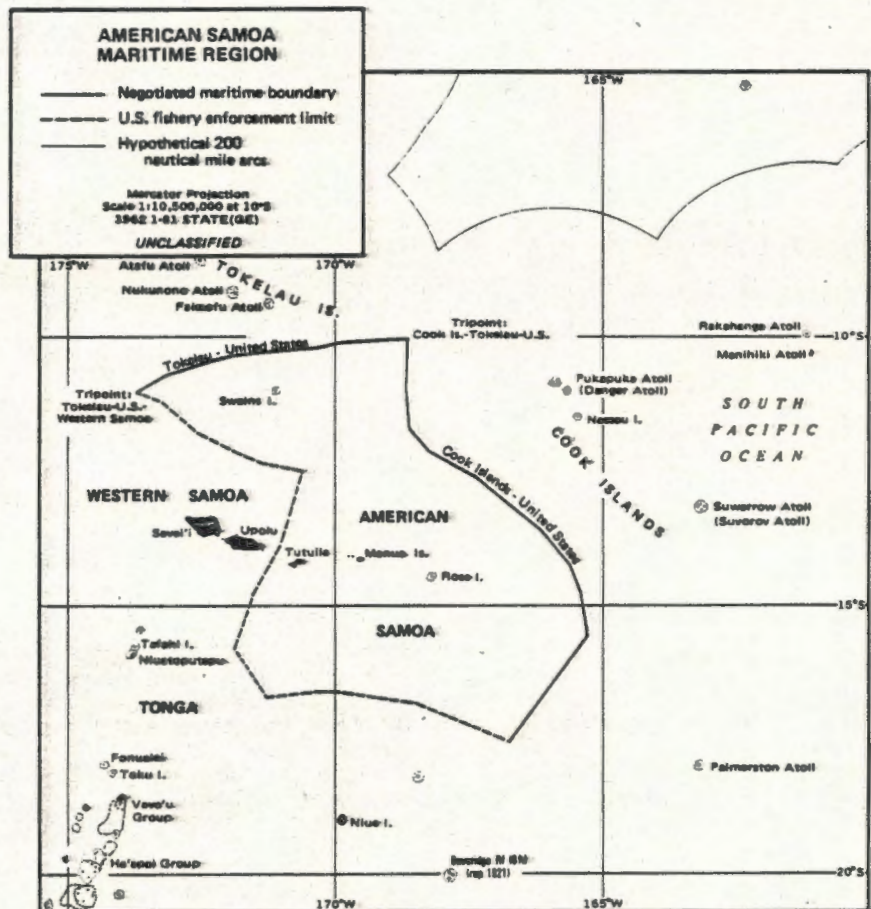
Done in triplicate at Atafu this second day of December 1980, in the English and Tokelauan languages of which the English will be the authentic text.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
NEW ZEALAND

Anne C. Martindale

*Sheli Pireira,
Francis Pita
Alfonso Indica*



[SEAL]

ARTICLE II

The geodetic and computational bases used for determining the coordinate values in Article I are the World Geodetic System, 1972 (WGS 72) and the following charts and aerial plans:

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I, Brian Edward Talboys, Minister of Foreign Affairs of New Zealand do hereby certify that Amusia Patea, Faipule of Atafu, (or, alternatively, Elia Tinielu, Pulenuku of Atafu) and Itieli Pereira, Faipule of Fakaofo, (or, alternatively, Pulunone Levao, Pulenuku of Fakaofo) and Aloisio Kave Ineleo, Faipule of Nukunonu, (or, alternatively, Senio Sakalia, Acting Faipule of Nukunonu) are vested with full power and authority to sign on behalf of New Zealand the Treaty between New Zealand and the United States of America on the Delimitation of the Maritime Boundary between Tokelau and the United States of America.

IN WITNESS WHEREOF, I have signed and sealed these presents at Wellington this 26th day of November 1980.

BRIAN TALBOYS.

DECEMBER 2, 1980.

Mr. F. H. CORNER,
*Administrator of Tokelau,
Ministry of Foreign Affairs,
Wellington.*

DEAR MR. CORNER: The Government of the United States welcomes the statement of policy by the Government of New Zealand, recalled in your letter of this date, that the resources of the Tokelau 200-mile zone should be exploited for the exclusive benefit of the people of Tokelau. In this regard, the Government of the United States understands that it would be consistent with this policy for applications to fish in the Tokelau 200-mile zone by United States flag vessels on such terms and conditions as may be applicable to be sympathetically considered.

Sincerely yours,

THOMAS R. PICKERING.

DECEMBER 2, 1980.

HON. THOMAS R. PICKERING,
Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, Department of State, Washington, D.C.

DEAR MR. PICKERING: I have the honour to refer to the negotiation in Wellington of the Treaty Between New Zealand and the United States of America on the Delimitation of the Maritime Boundary Between Tokelau and the United States of America. During this negotiation discussions concerning fisheries within the 200 mile zone of Tokelau were held in which the question of access to the fishery resources of Tokelau was raised. It was noted that United States flag vessels have not in the past normally engaged in fishing in these waters, but that they may wish to do so in the future. In this connection, I wish to recall that the representative of the Government of New Zealand stated that New Zealand's policy was that the resources of the Tokelau 200 mile zone should be exploited for the exclusive benefit of the people of Tokelau. To this end, and in the interest of maximising the benefits for the people of Tokelau, New Zealand wished to encourage development of the fishing resources of the Tokelau 200 mile zone to the greatest possible extent.

I wish to recall further that the representative of the Government of New Zealand referred to the fact that in accordance with this policy New Zealand is negotiating access arrangements covering future fishing activities by those parties currently engaged in fishing in the Tokelau zone which supply the canneries in American Samoa. Moreover, he stated that in furtherance of this policy, the Government of New Zealand is concerned to promote all other possibilities for the development of Tokelau's fishing resources including the encouragement of fishing by vessels such as those of the United States that have not previously fished in these waters. In this connection he noted that Tokelau law permitted the licensing of individual vessels where appropriate.

Yours sincerely,

FRANK CORNER,
Administrator of Tokelau.

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National Security Council
The White House

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Bud McFarlane			
Jacque Hill			
Judge Clark			
John Poindexter			
Executive Secretary			
NSC Secretariat			
Situation Room			
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I-Information A-Action R-Retain D-Dispatch N-No further Action

DISTRIBUTION

cc: VP Meese Baker Deaver Other _____

COMMENTS

Should be seen by: _____
(Date/Time)

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RECEIVED 18 JUL 83 16

TO CLARK FROM HILL, C

DOCDATE 18 JUL 83

KEYWORDS: NEW ZEALAND

TREATIES

MARITIME

SUBJECT: RATIFICATION OF TREATY W/ NEW ZEALAND ON THE DELIMITATION OF THE
MARITIME BOUNDARY BTW THE US & TOKELAU

ACTION: PREPARE MEMO FOR CLARK DUE: 21 JUL 83 STATUS S FILES

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OFFICE OF THE VICE PRESIDENT
WASHINGTON

September 13, 1983

MEMORANDUM FOR ROBERT M. KIMMITT
EXECUTIVE SECRETARY
NATIONAL SECURITY COUNCILFROM: Philip Hughes *Philip*SUBJECT: Vice President's Dinner Honoring New Zealand
Prime Minister Robert Muldoon

The Vice President will attend a dinner hosted by New Zealand's Ambassador honoring Prime Minister Robert Muldoon on Thursday, September 29, at 7:00 p.m. We would very much appreciate your providing background papers, a toast, and talking points for the Vice President's use as soon as convenient.

Thank you.

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TO

KIMMITT

FROM HUGHES, P

DOCDATE 13 SEP 83

KEYWORDS: NEW ZEALAND

AVP

MULDOON, ROBERT D

SUBJECT: REQUEST FOR BRIEFING PAPERS FOR VP MTG W/ PM MULDOON SEP 29

ACTION: PREPARE BACKGROUND PAPERS

DUE: 27 SEP 83 STATUS C FILES WH

FOR ACTION

FOR CONCURRENCE

FOR INFO

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DATE 14 SEP 83

MEMORANDUM FOR: STATE SECRETARIAT

DEPARTMENT OF STATE

DOCUMENT DESCRIPTION:

TO: KIMMITT

SOURCE: HUGHES, P

DATE: 13 SEP 83

KEYWORDS NEW ZEALAND

AVP

MULDOON, ROBERT D

SUBJ: REQUEST FOR BRIEFING PAPERS FOR VP MTG W/ PM MULDOON SEP 29

REQUIRED ACTION: PREPARE BACKGROUND PAPERS

DUE DATE: 27 SEP 83

COMMENTS:

C. M. Ellison

FOR ROBERT M. KIMMITT

EXECUTIVE SECRETARY