

Limits in the Seas

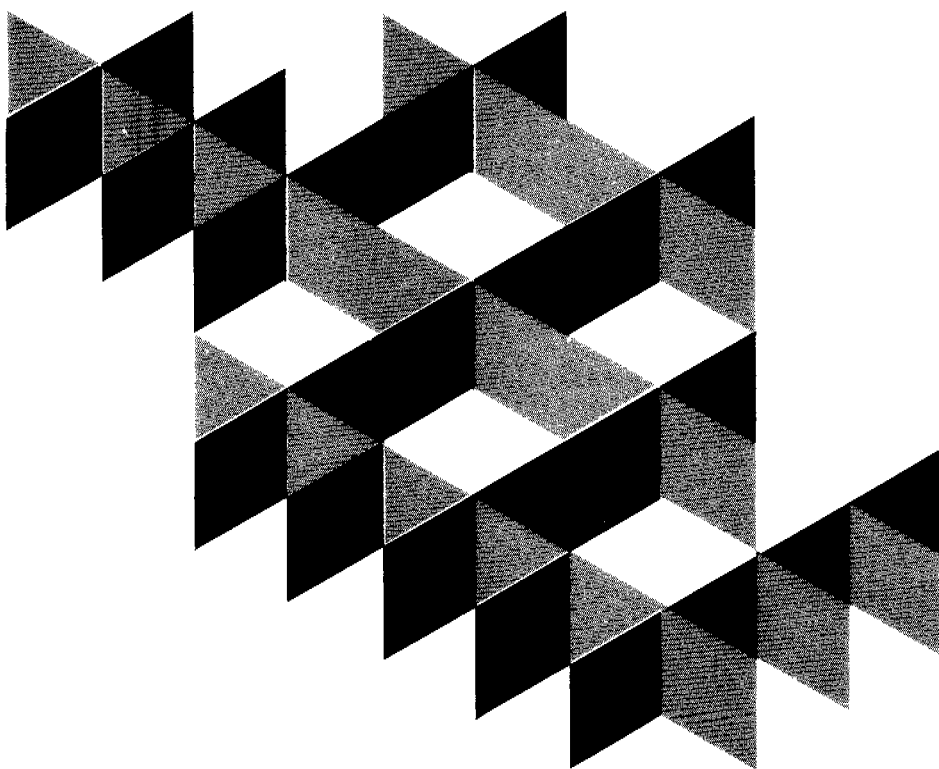
No. 100

MARITIME BOUNDARIES:

UNITED STATES-COOK ISLANDS

and

UNITED STATES-NEW ZEALAND(TOKELAU)



This paper is one of a series issued by The Geographer, Bureau of Intelligence and Research of the Department of State. The aim of the series is to set forth the basis for national arrangements for the measurement of the territorial sea or the division of the maritime areas of coastal nations.

Intended for background use only, this research document does not represent an official acceptance of the United States Government of the line or lines represented on the charts or, necessarily, of the specific principles involved, if any, in the original drafting of the lines. Principal analyst for this study: Robert W. Smith. Additional copies may be requested by mail from The Geographer, Department of State, Washington, D.C. 20520.

LIMITS IN THE SEAS

No. 100

Maritime Boundaries: United States-Cook Islands and
United States-New Zealand (Tokelau)

December 30, 1983

Office of The Geographer
Bureau of Intelligence and Research

On June 11, 1980, the United States and the Cook Islands signed a treaty which, inter alia, established a maritime boundary between the Cook Islands and American Samoa. On December 2, 1980, the United States and New Zealand signed a treaty delimiting a maritime boundary between Tokelau and American Samoa. Upon the exchange of instruments of ratification, the United States-Cook Islands and United States-New Zealand treaties entered into force on September 8, 1983, and September 3, 1983, respectively. The full text of each agreement is as follows:

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

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 of 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;

Fakaofu 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:

FOR THE GOVERNMENT OF THE
COOK ISLANDS:

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 of 1977;

Noting the Fishery Conservation and Management Act of 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 Fakaofu 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)	Longitude (West)
10°01'26"	168°31'25"
10°07'52"	169°46'50"
10°10'18"	170°16'10"
10°15'17"	171°15'32"
10°17'50"	171°50'58"
10°25'26"	172°11'01"
10°46'15"	173°03'53"
11°02'17"	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. 83478, 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 VII

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

Anne C. Martindell

FOR THE GOVERNMENT OF
NEW ZEALAND

Itieli Pereira
Amusia Patea
Aloisio Ineleo

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 Fakaofu,
(or, alternatively, Pulonone Levao,
Pulenuku of Fakaofu) 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

ANALYSIS

Overview

On April 13, 1976, President Ford signed into law the Fishery Conservation and Management Act of 1976, effective March 1, 1977.¹ This law affected fishery jurisdiction over marine areas off the coasts of the 50 states and of the territories of the United States, including American Samoa. At that time, only part of American Samoa's fishery zone was delimited, owing to the dispute between the United States and New Zealand over the sovereignty of three islands² and between the United States and the Cook Islands over the sovereignty of four islands.³ The US claim to these islands had arisen out of occasional 19th-century visits to the islands by American whalers and by the execution of guano bonds pursuant to the 1856 Guano Islands Act. Each of the two treaties resolved the disputed status through recognition by the United States of the sovereignty of the Cook Islands and of Tokelau and New Zealand over the respective islands. In addition, the treaty delimiting the boundary between American Samoa and Tokelau confirmed US sovereignty over Swains Island.

On March 10, 1983, President Reagan proclaimed for the United States a 200-nautical-mile exclusive economic zone. This proclamation does not affect either agreement, because of the provisions contained in Articles III and IV of each treaty.

Attached is a page-size map illustrating the two boundaries established to the north and to the east of American Samoa. Three boundaries involving Tonga, Western Samoa, and New Zealand (Niue) remain to be negotiated to complete the maritime zone around American Samoa.

United States-Cook Islands

One issue that had to be addressed during the negotiation of this treaty was the political status of the Cook Islands Government. The Cook Islands is in free association with New Zealand. On internal matters it is self-governing and it may unilaterally declare its independence from New Zealand at any time. The Cook Islands conducts its foreign affairs in conjunction with New Zealand. The Cook Islands declared and does manage a 200-nautical-mile zone. During the negotiations the

¹Public Law No. 94-265, 16 USC 1801.

²Atafu Atoll, Fafafo Atoll, and Nukunonu Atoll.

³Pukapuka (Danger) Atoll, Manihiki Atoll, Rakahanga Atoll, and Penrhyn Atoll.

question arose whether it was legally possible for the United States to enter into a treaty relationship with a political entity other than a fully sovereign and independent state.

After a legal analysis the conclusion was reached that only New Zealand could place a limitation on the conduct of foreign affairs by the Cook Islands. The United States requested and received confirmation from the Government of New Zealand that the Cook Islands had the competence to enter into this treaty and that New Zealand had no objection to this course of action (see Annex I for New Zealand's diplomatic note on the subject).

On the substantive part of the negotiations, agreement was reached that an equidistant line was appropriate. To develop an equidistant line the parties were faced with several technical questions. Critical to the calculation of an equidistant line is an accurate depiction of the relevant coastlines of each country and knowledge of the relationship of the respective coastlines to each other. Some of the islands involved in this boundary delimitation are depicted on charts based on 19th-century surveys. Positions on these charts were established on local datums; thus, the geodetic positioning varied from island to island.

In American Samoa and in the Cook Islands, it was impossible to connect all the relevant islands to a common datum using existing information. Agreement was reached that a common datum would be assumed for the purposes of this maritime boundary delimitation and that the World Geodetic System 1972 (WGS 72) datum would be used. The positions of the American Samoan islands, which were accurately depicted on the 1927 North American datum, were placed on the WGS 72 datum. Because of their accuracy and currency, New Zealand Lands and Survey aerial plans were used instead of nautical charts for the depiction of the Cook Islands.

The boundary between the United States and the Cook Islands consists of 25 turning points and terminal points and is about 566 nautical miles in length. At the nearest point, the boundary is approximately 120 nautical miles from each coast (at turning point 16). The northernmost point coincides with the easternmost point of the United States-New Zealand (Tokelau) boundary. The southernmost point, which is close to 200 nautical miles from each coast, will be the easternmost point of the to-be-concluded United States-New Zealand (Niue) boundary. The following table describes the basepoints and distances involved in the boundary. The boundary point numbers refer to the turning points cited in the treaty; the basepoint references are as follows, and the specific geographic coordinates are listed in Annex II of this study:

AM: American Samoa
CI: Cook Islands
NU: Niue
TK: Tokelau

<u>Turning Point</u>	<u>Distance Between Turning Points (n.m.)</u>	<u>Influencing Basepoints</u>	<u>Distance Between Turning Points (n.m.)</u>
1	59.4	AM-1, CI-1, NU-1	199.3
2	27.0	AM-1, CI-1, CI-2	179.7
3	6.1	AM-1, CI-2, CI-3	176.6
4	12.0	AM-1, CI-3, AM-2	176.4
5	29.1	AM-2, CI-3, AM-3	176.7
6	7.6	AM-3, CI-3, CI-4	180.8
7	25.4	AM-3, CI-4, CI-5	182.6
8	14.3	AM-3, CI-5, CI-6	169.3
9	58.3	AM-3, CI-6, CI-7	163.1
10	27.8	AM-3, CI-7, CI-8	149.3
11	13.8	AM-3, CI-8, CI-9	134.5
12	21.4	AM-3, CI-9, AM-4	128.8
13	11.0	AM-4, CI-9, AM-5	122.4
14	3.9	AM-5, CI-9, AM-6	120.5
15	20.2	AM-6, CI-9, CI-10	120.0
16	24.5	AM-6, CI-10, CI-11	119.6
17	18.9	AM-6, CI-11, CI-12	123.6
18	58.8	AM-6, CI-12, CI-13	129.8
19	24.9	AM-6, CI-13, AM-7	149.3
20	41.0	AM-7, CI-13, AM-8	158.3
21	10.1	AM-8, CI-13, AM-9	151.9
22	39.5	AM-9, CI-13, CI-14	151.9
23	0.1	AM-9, CI-14, AM-10	158.6
24	11.3	AM-10, CI-14, AM-11	158.6
25		AM-11, CI-14, TK-1	162.2

United States-New Zealand (Tokelau)

The United States and New Zealand agreed that an equidistant line would create an equitable boundary in this situation. A technical exercise similar to the one pursued in the United States-Cook Islands boundary delimitation was carried out. The World Geodetic System 1972 (WGS-72) datum was assumed to be the common datum.

An equidistant line consisting of 22 turning and terminal points was calculated. It was then decided to simplify the line to eight turning and terminal points. All the points that were deleted from the original equidistant line were situated virtually on the simplified equidistant line, thereby eliminating the need for an area exchange between the parties.

The boundary runs generally in an east-west direction for approximately 318 nautical miles. The easternmost point is the tripoint with the Cook Islands; the westernmost point most likely will be the starting point of the to-be-negotiated boundary between the United States and Western Samoa. The closest the boundary approaches the respective coasts is 48.5 nautical miles (at turning point 4).

The following table describes the basepoints and distances involved in the boundary. The boundary point numbers refer to the turning points cited in the treaty; the basepoint references are as follows, and the specific geographic coordinates are listed in Annex III of this study:

AM: American Samoa
 CI: Cook Islands
 TK: Tokelau
 WS: Western Samoa

<u>Turning Point</u>	<u>Distance Between Turning Points (n.m.)</u>	<u>Influencing Basepoints</u>	<u>Distance Between Turning Points (n.m.)</u>
1	74.7	AM-1, TK-1, CI-1	162.2
2	29.0	AM-2, TK-1, AM-3	93.7
3	58.7	AM-3, TK-2, TK-3	70.4
4	35.0	AM-4, TK-4, AM-5	48.5
5	21.2	AM-6, TK-5, TK-6	63.5
6	56.0	AM-6, TK-7, TK-8	74.6
7	43.3	AM-7, TK-9, TK-10	117.7
8		AM-7, TK-10, WS-1	156.7

Annex I
New Zealand's Diplomatic Note to the United States

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.

Annex II
Basepoints Used to Calculate
United States-Cook Islands Maritime Boundary

American Samoa (AM)

Rose Island
(National Ocean Service (NOS) 83484, 6th ed., March 26/77,
1:80,000)

1. 14°33'10"S
168°08'21"W
2. 14°32'57"S
168°08'11"W
3. 14°32'54"S
168°08'09"W
4. 14°32'48"S
168°08'12"W
5. 14°31'58"S
168°08'48"W
6. 14°31'51"S
168°08'54"W

Manua Islands
(NOS 83484 - corrected for WGS 72)

7. 14°12'24"S
169°25'47"W

Swains Island
(NOS 83484, 1:40,000)

8. 11°03'20"S
171°03'47"W
9. 11°03'18"S
171°03'47"W
10. 11°03'15"S
171°03'48"W
11. 11°03'09"S
171°03'50"W

Cook Islands (CI)

Palmerston Atoll

(N.Z. Lands & Survey Aerial Plan No. 1036/8h, 1976,
1:50,400)

1. 18°03'21"S
163°12'04"W
2. 18°00'02"S
163°10'29"W
3. 17°59'38"S
168°10'13"W
4. 17°59'31"S
163°10'05"W

Suwarrow (Suvarov) Atoll

(N.Z. Lands & Survey Aerial Plan No. 1036/8e, 1975,
1:50,400)

5. 13°19'45"S
163°09'22"W
6. 13°19'29"S
163°09'37"W
7. 13°17'18"S
163°11'24"W

Nassau Island

(N.Z. Lands & Survey Aerial Plan No. 1036/8b, 1974,
1:148,000)

8. 11°34'01"S
165°24'45"W
9. 11°34'00"S
165°24'49"W
10. 11°33'55"S
165°24'56"W
11. 11°33'32"S
165°25'20"W
12. 11°33'28"S
165°25'22"W

Pukapuka (Danger) Island
(N.Z. Land & Survey Aerial Plan No. 1036/8d, 1975,
1:28,800)

13. 10°53'12"S
165°55'16"W

14. 10°53'07"S
165°55'16"W

Niue (NU)

(BA 968, 16th ed., March 1979, 1:150,000)

1. 18°57'43"S
165°48'30"W

Tokelau (TK)

Fakaofu Atoll
(N.Z. Lands & Survey Aerial Plan No. 1036/7c, 1974,
1:18,000)

1. 9°25'44"S
171°11'42"W

Annex III
Basepoints Used to Calculate the
United States-New Zealand (Tokelau)
Maritime Boundary

American Samoa (AM)

Swains Island
(NOS 83484, 6th ed., March 26/77, 1:40,000)

1. 11°03'09"S
171°03'50"W
2. 11°03'02"S
171°03'55"W
3. 11°02'51"S
171°04'03"W
4. 11°02'49"S
171°04'50"W
5. 11°02'54"S
171°05'14"W
6. 11°03'00"S
171°05'24"W
7. 11°03'06"S
171°05'26"W

Tokelau (TK)

Fakaofu Atoll
(N.Z. Lands & Survey Aerial Plan No. 1036/7c, 1974,
1:18,000)

1. 9°25'44"S
171°11'42"W
2. 9°26'15"S
171°11'59"W
3. 9°26'30"S
171°12'11"W

4. 9°26'40"S
171°12'27"W

5. 9°26'39"S
171°12'32"W

Nukunonu Atoll

(N.Z. Lands & Survey Aerial Plan No. 1036/7B2, 1974,
1:18,000)

6. 9°14'07"S
171°47'22"W

7. 9°13'40"S
171°49'04"W

8. 9°13'27"S
171°49'48"W

9. 9°13'18"S
171°50'05"W

10. 9°13'11"S
171°50'14"W

Cook Islands (CI)

Pukapuka (Danger) Island

(N.Z. Land & Survey Aerial Plan No. 1036/8d, 1975,
1:28,800)

1. 10°53'07"S
165°56'16"W

Western Samoa (WS)

(DMAHTC 83473, 7th ed., May 1976, 1:200,000)

1. 13°29'02"S
172°46'52"W