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1. INTRODUCTION AND OBJECTIVES

The Kingdom of Tonga is proud to have the longest continuous legal claim of historic title to maritime domain in the World. The Royal Proclamation issued by His Majesty George Tubou, King of Tonga, on 24 August 1887 claims national jurisdiction by the Kingdom of Tonga over “all, islands, rocks, reefs, foreshores and waters lying between the fifteenth and twenty-third and a half degrees of south latitude and between the one hundred and seventy-third and the one hundred and seventy-seventh degrees of west longitude from the Meridian of Greenwich” (Annex A.1).

The Royal Proclamation of 24 August 1887 has resulted in the exercise of continuous jurisdiction and authority by the Kingdom of Tonga over the land territory and the maritime spaces defined in accordance with the claim for over one hundred and twenty years (Figure 1). This claim has never been reacted against or objected to by any State.

The Kingdom of Tonga became a State Party to the 1958 Geneva Conventions on the Territorial Sea and the Contiguous Zone (United Nations, Treaty Series, vol. 516, p. 205) and the Continental Shelf (United Nations, Treaty Series, vol. 499, p. 311) when it deposited its instruments of succession on 29 June 1971. These instruments of succession were followed by a communication from the Government of Tonga to the Secretary-General of the United Nations on 22 October 1971, to the effect that it wishes to maintain all objections made by the United Kingdom to the reservations or declarations made by States with respect to these Conventions.

The Kingdom of Tonga became a State Party to the United Nations Convention on the Law of the Sea (United Nations, Treaty Series, vol. 1833, p. 3) when it deposited its instrument of accession on 2 August 1995. It also deposited its instrument of participation to the Agreement relating to the Implementation of Part XI of the Convention on 2 August 1995, and it signed and ratified the Agreement for the Implementation of the Provisions of the Convention relating to the

Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks on 31 July 1996.

Historic title is recognised in international law and in the United Nations Convention on the Law of the Sea (International Law Commission, 1962). Historic title is recognised in the Convention in the context of several other provisions, such as article 15 on the delimitation of the territorial sea between States with opposite or adjacent coasts in Part II on the Territorial Sea and Contiguous Zone, and article 46 Use of terms in Part IV on Archipelagic States. The Kingdom of Tonga asserts in this Submission consistency between its claim of historic title made by means of the Royal Proclamation of 24 August 1887 and its maritime jurisd

WHEREAS the Reefs known as North Minerva Reef and South Minerva Reef have long served as fishing grounds for the Tongan people and have long been regarded as belonging to the Kingdom of Tonga has now created on these Reefs islands known as Teleki Tokelau and Teleki Tonga; AND WHEREAS it is expedient that we should now confirm the rights of the Kingdom of Tonga to these islands; THEREFORE we do hereby AFFIRM and PROCLAIM that the islands, rocks, reefs, foreshores and waters lying within a radius of twelve miles [19.31 km] thereof are part of our Kingdom of Tonga.

The islands of Teleki Tokelau and Teleki Tonga were recognized as part of the Tongan national territory by the South Pacific Forum of States in September 1972.

Paragraph 1 of article 311 of the Convention establishes that:

This Convention shall prevail, as between States Parties, over the Geneva Conventions

outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

The above procedure is further elaborated in article 4 of Annex II to the Convention with the addition of a temporal requirement and a request designed to inform the Commission:

Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

The Eleventh Meeting of States Parties to the Convention, held from 14 to 18 May 2001, noted that it was only after the adoption of the Scientific and Technical Guidelines by the Commission on 13 May 1999 that States had before them the basic documents concerning submissions in accordance with article 76, paragraph 8, of the Convention. Considering the problems encountered by States Parties, in particular developing countries, including small-island developing States, in complying with the time limit set out in article 4 of Annex II to the Convention; the Meeting of States Parties (SPLOS/72) decided that:

- (a) in the case of a State Party for which the Convention entered into force before 13 May 1999, it is understood that the ten-year time period referred to in article 4 of Annex II to the Convention shall be taken to have commenced on 13 May 1999; and that*
- (b) the general issue of the ability of States, particularly developing States, to fulfil the requirements of article 4 of Annex II to the Convention is kept under review.*

The Government of the Kingdom of Tonga has identified the eastern part of the Tonga-Kermadec Ridge and the western part of the Lau-Colville Ridge as two regions over which it can

extend its national jurisdiction over the continental shelf beyond 200 nautical miles from the baselines from which the breadth of

rule 51, paragraph 4 ter, of the rules of procedure, at a future session. The Commission decided to revert to the consideration of the submission at the plenary level when the submission was next in line for consideration as queued in the order in which it was received.

The eastern part of the Kermadec Ridge and the western part of the Lau-Colville Ridge are regions over which there are overlaps of maritime spaces under the national jurisdictions of the Kingdom of Tonga, the Republic of the Fiji Islands, and New Zealand. These overlaps have not been resolved by means of maritime boundary delimitation agreements among the three States to this date.

The Convention recognizes that competence with respect to the delimitation of international maritime boundaries which may arise in connection with the establishment of the outer limits of the continental shelf rests with States according to paragraph 1 of article 83:

The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

The Convention establishes that any outer limits of the continental shelf beyond 200 nautical miles determined in accordance with paragraphs 4 to 6 of article 76 are without prejudice to the delimitation of continental shelf boundaries between States according to paragraph 10 of the same article:

The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

The distinction between the delimitation of international continental shelf boundaries and the determination of the outer limits of the continental shelf is further reinforced by a savings provision contained in paragraph 4 of article 134:

Nothing in this article affects the establishment of the outer limits of the continental shelf in accordance with Part VI or the validity of agreements relating to delimitation between States with opposite or adjacent coasts.

However, the Convention, in article 9 of Annex II, also urges the Commission to take a cautious approach during the consideration of submissions and the preparation of its recommendations:

The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.

This is appropriate under certain circumstances because the basis for entitlement to the continental shelf by States is also pertinent to its delimitation. The Kingdom of Tonga takes note of paragraph 3 of Annex I of the Rules of Procedure of the CLCS:

A submission may be made by a coastal State for a portion of its continental shelf in order not to prejudice questions relating to the delimitation of boundaries between States in any other portion or portions of the continental shelf for which a submission may be made later, notwithstanding the provisions regarding the ten-year period established by article 4 of Annex II to the Convention.

In this sense, the Kingdom of Tonga makes this second partial submission of data and information concerning the outer limits of the continental shelf along the western portion of the Lau-Colville Ridge for the consideration of the CLCS without prejudice to boundary delimitations with the governments of the Republic of the Fiji Islands and New Zealand, which may be conducted at a later date.

The decision to make two partial submissions, the first in the eastern part of the Tonga-Kermadec Ridge, and the second in the western part of the Lau-Colville Ridge, is consistent with

the consideration of the Submission of New Zealand by the CLCS made it impossible to agree to prepare a Joint Submission, the Government of the Kingdom of Tonga acted in a way not to jeopardize or to hamper in any way the consideration by the CLCS of the Submission made by New Zealand in its Northern Region.

The Kingdom of Tonga communicated its views to the CLCS also fully aware of the fact that the position of the Government of New Zealand is consistent with its own interpretation of article 76, paragraph 10, in the sense that notwithstanding the outcome of the Recommendations in regard to the submission made by New Zealand adopted by the CLCS on August 22, 2008, the international maritime boundary delimitation of the exclusive economic zone and the continental shelf shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

The Government of the Kingdom of Tonga takes note of the consistent position taken by the Government of New Zealand on the interpretation of article 76, paragraph 10, as evidenced in direct consultations and its Note No. NZ-CLCS-TPN03 dated 10 July 2006.

The Government of the Kingdom of Tonga also feels that a decision to make this second partial submission to the CLCS is consistent with the position expressed by the Government of the Fiji

5-1 Fiji has outstanding delimitations in the area of this partial submission with the Kingdom of Tonga and New Zealand. Fiji's submission is made without prejudice to outstanding delimitations, consistent with Article 76, paragraph 10 and Annex II, Article 9 of UNCLOS.

From all the information communicated officially to the Secretary-General and the CLCS by the Kingdom of Tonga, the Republic of the Fiji Islands and New Zealand, it follows that all three States coincide in their interpretation of the relevant provisions of the Convention in the sense that any full or partial submission made by either Party is without prejudice to both the consideration of the full or partial submissions by the CLCS, and to boundary delimitations among them, which are to be conducted at a later date.

In its first partial submission dated 11 May 2009, the Kingdom of Tonga reserved the right to make a second partial separate submission of information and data to support the outer limits of the continental shelf beyond 200 nautical miles from which the breadth of the territorial sea is measured in the western part of the Lau-Colv

The use of a disjunction between the two *formulae* above implies that it is sufficient that one formula line extends beyond 200 nautical miles in order to ensure the determination of an outer limit of the continental shelf beyond this distance. Thus, the limit of the continental shelf beyond 200 nautical miles can be extended up to a line delineated by reference to fixed points where sediment thickness is at least 1% from the shortest distance to the foot of the continental slope, or to a line delineated by reference to fixed points at a distance of 60 nautical miles from the foot of the continental slope, whichever is furthest from the baselines from which the breadth of the territorial sea is measured.

The use of an inclusive disjunction also implies that when both *formulae* lines are used, their outer envelope determines the maximum potential extent of entitlement over the continental shelf by a coastal State. If any portion of this outer envelope extends beyond 200 nautical miles, the test of appurtenance would be satisfied and a coastal State would be in a position to apply the full range of provisions contained in paragraphs 4 to 6 to determine the outer limits of the continental shelf extended beyond 200 nautical miles.

The determination of the outer limits is an essential procedure of the implementation of article 76. The outer envelope of the 1% sediment thickness and the foot of the slope plus 60 nautical miles lines *formulae* is used once again in this procedure. But it is still subject to spatial constraints in order to produce the determination of the outer limits of the continental shelf.

The extent of the outer envelope formed by the lines derived from the two *formulae* is restricted by a line derived from the two lines, defined by the Commission as constraints. According to paragraph 5, the simultaneous application of these two constraints defines the outer limit beyond which the continental shelf cannot be extended:

The fixed points comprising the line of the outer limits of the continental shelf on the seabed, drawn in accordance with paragraph 4 (a) (i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is

measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

The outer limit of the continental shelf beyond 200 nautical miles in the western part of the Lau-Colville Ridge region is determined under the above provisions by the application of a single formula provided by a line determined at a distan

Scientific and technical training was received from the United Nations Division of Oceans Affairs and the Law of the Sea (DOALOS).

6. THE OUTER LIMIT OF THE CONTINENTAL SHELF

Figure 3 shows the outer limit of the continental shelf beyond 200 nautical miles measured from the baselines from which the breadth of the territorial sea is measured from the Kingdom of Tonga and New Zealand in the eastern part of the Lau-Colville Ridge region.

Table 1 lists the coordinates of the turning points of the outer limit defined by straight lines not exceeding 60 M in length. All coordinates of longitude have been set to longitude east. This makes it easier to work with data across the da

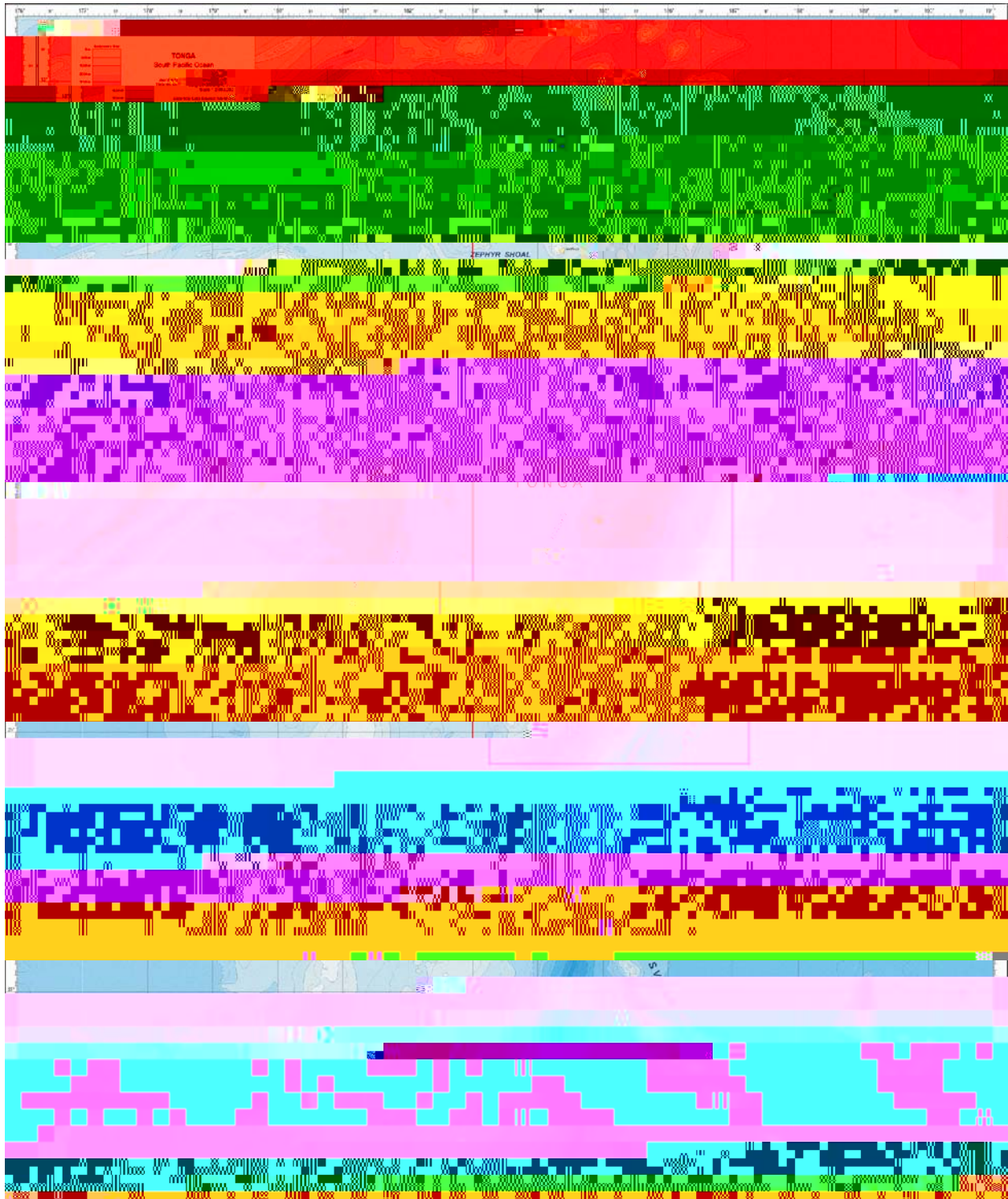


Figure 1. Geographical limits of the land and maritime claim made in the Royal Proclamation issued by His Majesty George Tubou, King of Tonga, on 24 August 1887.

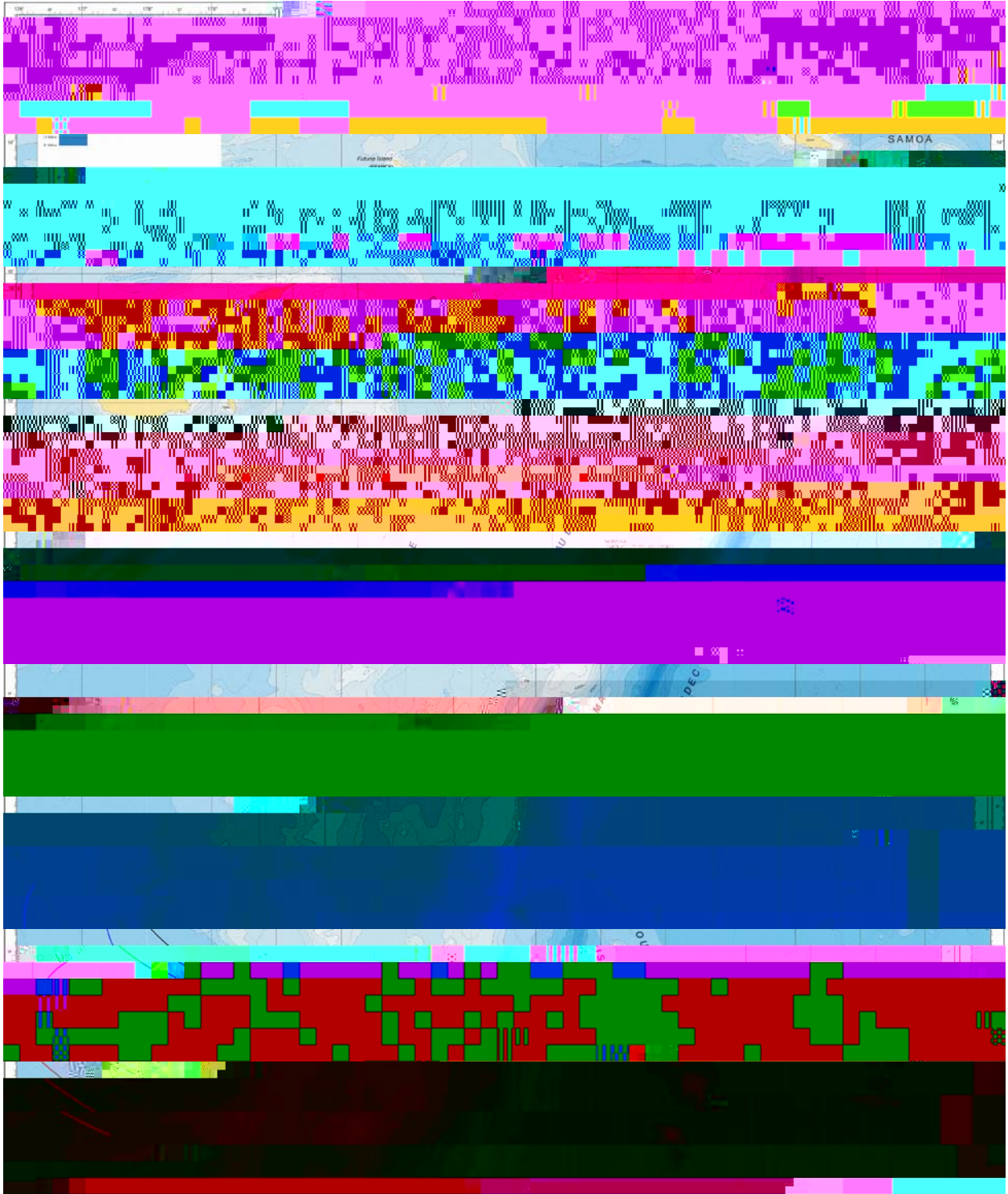


Figure 2. The distance formula line (shown in blue) delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope, and the constraint line (shown in red) at a distance of 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.



Figure 3. The outer limits of the continental shelf of the Kingdom of Tonga (shown in blue) beyond 200 nautical miles measured from the baselines of the Kingdom of Tonga and New Zealand according to paragraph 7 by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

Table 1. List of coordinates of latitude and longitude of th

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Point	Latitude South			Longitude East		
41	25°	46'	24.7813	177°	24'	5.1759
42	25°	46'	56.5931	177°	23'	57.8253
43	25°	47'	28.4634	177°	23'	50.7902
44	25°	48'	0.3896	177°	23'	44.0712
45	25°	48'	32.3691	177°	23'	37.6689
46	25°	49'	4.3993	177°	23'	31.5839
47	25°	49'	36.4777	177°	23'	25.8167
48	25°	50'	8.6017	177°	23'	20.3679
49	25°	50'	40.7687	177°	23'	15.238
50	25°	51'	12.9761	177°	23'	10.4275
51	25°	51'	45.2212	177°	23'	5.9368
52	25°	52'	17.5016	177°	23'	1.7664
53	25°	52'	49.8145	177°	22'	57.9167
54	25°	53'	22.1574	177°	22'	54.388
55	25°	53'				



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Point	Latitude South			Longitude East		
141	27°	37'	19.0373	177°	2'	46.6219

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Point	Latitude South			Longitude East		
181	27°	57'	47.9875	177°	10'	14.1418
182	27°	58'	16.5112	177°	10'	31.6125
183	27°	58'	44.8935	177°	10'	49.374
184	27°	59'	13.1321	177°	11'	7.4248
185	27°	59'	41.2248	177°	11'	25.7637
186	28°	0'	9.1692	177°	11'	44.3891
187	28°	0'	36.9631	177°	12'	3.2996
188	28°	1'	4.6041	177°	12'	22.4936
189	28°	1'	32.09	177°	12'	41.9698
190	28°	1'	59.4186	177°	13'	1.7265
191	28°	2'	26.5875	177°	13'	21.7622
192	28°	2'	53.5947	177°	13'	42.0752
193	28°	3'	20.4377	177°	14'	2.6641
194	28°	3'	47.1145	177°	14'	23.5271
195	28°	4'	13.6228	177°	14'	44.6625
196	28°	4'	39.9606	177°	15'	6.0688
197	28°	5'	6.1255	177°	15'	27.7442
198	28°	5'	32.1154	177°	15'	49.687
199	28°	5'	57.9283	177°	16'	11.8954
200	28°	6'	23.562	177°	16'	34.3676

Table 1. List of coordinates of latitude and longitude of the turning points determined in accordance with paragraph 7 of article 76 which define the outer limit of the continental shelf of the Kingdom of Tonga beyond 200 nautical miles at distances not exceeding 60 nautical miles in the Lau-Colville Ridge region.

Point	Latitude South			Longitude East		
	28°			177°		
221	28°	14'	36.8716	177°	25'	23.8583
222	28°	14'	58.0564	177°	25'	51.642
223	28°	15'	19.0175	177°	26'	19.6429
224	28°	15'	39.7531	177°	26'	47.8586
225	28°	16'	0.2615	177°	27'	16.2867
226	28°	16'	20.5411	177°	27'	44.9251
227	28°	16'	40.5901	177°	28'	13.7713
228	28°	17'	0.4069	177°	28'	42.823
229	28°	17'	19.9898	177°	29'	12.0778
230	28°	17'	39.3373	177°	29'	41.5334
231	28°	17'	58.4477	177°	30'	11.1873
232	28°	18'	17.3195	177°	30'	41.0371
233	28°	18'	35.9511	177°	31'	11.0804
234	28°	18'	54.3409	177°	31'	41.3147
235	28°	19'	12.4874	177°	32'	11.7376
236	28°	19'	30.3892	177°	32'	42.3465
237	28°	19'	48.0447	177°	33'	13.1389
238	28°	20'	5.4525	177°	33'	44.1124
239	28°	20'	22.6111	177°	34'	15.2643
240	28°	20'	39.5192	177°	34'	46.5922

Table 1. List of coordinates of latitude and longitude of the turning points determined in accordance with paragraph 7 of article 76 which define the outer limit of the continental shelf of the Kingdom of Tonga beyond 200 nautical miles at distances not exceeding 60 nautical miles in the Lau-Colville Ridge region.

Point	Latitude South			Longitude East		
241	28°	20'	56.1752	177°	35'	18.0933
242	28°	21'	12.5779	177°	35'	49.7653
243	28°	21'				

Table 1. List of coordinates of latitude and longitude of the turning points determined in accordance with paragraph 7 of article 76 which define the outer limit of the continental shelf of the Kingdom of Tonga beyond 200 nautical miles at distances not exceeding 60 nautical miles in the Lau-Colville Ridge region.

Point	Latitude South			Longitude East		
	28°	25'	34.4108	177°	46'	20.4308
261	28°	25'	34.4108	177°	46'	20.4308
262	28°	25'	45.4894	177°	46'	54.953
263	28°	25'	56.2907	177°	47'	29.5884
264	28°	26'	6.8136	177°	48'	4.3342
265	28°	26'	17.0575	177°	48'	39.1876
266	28°	26'	27.0213	177°	49'	14.1456
267	28°	26'	36.7044	177°	49'	49.2054
268	28°	26'	46.1058	177°	50'	24.364
269	28°	26'	55.2249	177°	50'	59.6185
270	28°	27'	4.0608	177°	51'	34.9661
271	28°	27'	12.6128	177°	52'	10.4037
272	28°	27'	20.8802	177°	52'	45.9285
273	28°	27'	28.8623	177°	53'	21.5375
274	28°	27'	36.5585	177°	53'	57.2277
275	28°	27'	43.9681	177°	54'	32.9962
276	28°	27'	51.0905	177°	55'	8.84
277	28°	27'	57.9251	177°	55'	44.7561
278	28°	28'	4.4713	177°	56'	20.7416
279	28°	28'	10.7287	177°	56'	56.7935
280	28°	28'	16.6965	177°	57'	32.9087

Table 1. List of coordinates of latitude and longitude of the turning points determined in accordance with paragraph 7 of article 76 which define the outer limit of the continental shelf of the Kingdom of Tonga beyond 200 nautical miles at distances not exceeding 60 nautical miles in the Lau-Colville Ridge region.

Point	Latitude South			Longitude East		
281	28°	28'	22.3745	177°	58'	9.0843
282	28°	28'	27.7621	177°	58'	45.3172

Table 1. List of coordinates of latitude and longitude of the turning points determined in accordance with paragraph 7 of article 76 which defi