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PROTOCOLS 1, 2, AND 3 TO THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROTOCOLS 1, 2, AND 3 TO THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY, SIGNED ON BEHALF OF THE UNITED STATES AT SUVA ON MARCH 25, 1996

MAY 2, 2011.—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
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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *May 2, 2011.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith Protocols 1, 2, and 3 to the South Pacific Nuclear Free Zone Treaty ("the Treaty"), signed on behalf of the United States at Suva on March 25, 1996. I also transmit for the information of the Senate the Treaty to which these Protocols relate and the Department of State'sOverview of the Protocols, which includes a detailed article-by-article analysis of both the Protocols and the Treaty.

Ratification of Protocols 1, 2, and 3 to the Treaty would fully support U.S. nonproliferation policy and goals, and I am convinced that it is in the best interest of the United States to ratify these Protocols. This step will strengthen our relations with our South Pacific friends and allies and enhance U.S. security by furthering our global nonproliferation and arms control objectives. As the Overview of the Department of State explains, entry into force of Protocols 1, 2, and 3 for the United States would require no changes in U.S. law, policy, or practice.

I recommend that the Senate give favorable consideration to Protocols 1, 2, and 3 to the South Pacific Nuclear Free Zone Treaty and give its advice and consent to their ratification, subject to the statements described in the Overview of the Department of State.

BARACK OBAMA.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, DC, May 2, 2011.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to their transmittal to the Senate for advice and consent to ratification, subject to certain statements, Protocols 1, 2, and 3 to the South Pacific Nuclear Free Zone Treaty ("the Treaty"), also known as the Treaty of Rarotonga, which were signed on behalf of the United States at Suva, Fiji, on March 25, 1996. Also enclosed is an Overview of the Protocols, which includes a detailed article-by-article analysis of both the Protocols and the Treaty to which the Protocols relate.

These Protocols are consistent with U.S. military practices and require no changes in U.S. military operations, strategy, or policy. Ratification of Protocols 1, 2, and 3 by the United States would fully support U.S. nonproliferation policy and goals, and demonstrate the seriousness of the U.S. commitment to the global nuclear nonproliferation regime.

The Departments of Defense and Energy join me in recommending that Protocols 1, 2, and 3 of the Treaty be submitted to the Senate at an early date for its advice and consent to ratification, subject to the recommended statements set forth in the attached Overview of the Protocols.

Respectfully submitted,

HILLARY RODHAM CLINTON.

Enclosure: As stated.

THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY AND PROTOCOLS

OVERVIEW

Introduction

The South Pacific Nuclear Free Zone Treaty ("the Treaty") was opened for signature at Rarotonga on August 6, 1985, and entered into force December 11, 1986. The Treaty established the second nuclear-weapon-free zone in a populated region of the world (the first such zone was established by the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America and its two Additional Protocols). The Treaty provides that it is open for signature by States that are members of the South Pacific Forum (hereinafter referred to as the Pacific Islands Forum, as it was renamed in 2000), an international organization that seeks to promote regional cooperation among countries of the Pacific region. The Treaty prohibits the manufacture, acquisition, possession, or control of nuclear explosive devices by its Parties, as well as the dumping by Parties of radioactive wastes at sea within the defined zone. It also requires Parties to the Treaty to prevent the testing or stationing of nuclear explosive devices within their territories (as that term is defined in Article I of the Treaty). Because the United States is not a member of the Pacific Islands Forum, it is not eligible to become a Party to the Treaty itself.

The three Protocols that accompany the Treaty were opened for signature on August 8, 1986. Protocol 1 is open for signature by the United States, France, and the United Kingdom. Each Party to Protocol 1 undertakes to apply certain prohibitions under the Treaty to the territories for which it is internationally responsible situated within the zone. Ratification of Protocol 1 by the United States would prohibit the manufacture, stationing, or testing of nuclear explosive devices in American Samoa or on Jarvis Island (a small, uninhabited island located about 1,500 miles south of Hawaii). The United States, France, and the United Kingdom signed Protocol 1 on March 25, 1996. Protocol 1 is in force for France and the United Kingdom.

Protocols 2 and 3 are open for signature by the United States, China, France, Russia, and the United Kingdom -- the nuclear-weapon States as defined by the Treaty on the Non-Proliferation of Nuclear Weapons (the NPT). Each Party to

Protocol 2 undertakes not to use or threaten to use any nuclear explosive device against Parties to the Treaty or against any territory within the zone for which a State Party to Protocol 1 is internationally responsible. In addition, Protocol 2 Parties are prohibited from contributing to any act of a Treaty Party which would constitute a violation of the Treaty or to any act of another Protocol Party that would constitute a violation of a Protocol. The United States signed Protocol 2 on March 25, 1996, and it is in force for China, France, Russia, and the United Kingdom.

Each Party to Protocol 3 undertakes not to test any nuclear explosive device anywhere within the zone. The United States signed Protocol 3 on March 25, 1996, and it is in force for China, France, Russia, and the United Kingdom.

The Treaty meets all seven of the criteria that the United States has established for supporting any proposed nuclear weapon free zone. The criteria are as follows:

- the initiative for the creation of the zone should come from the States in the region concerned;
- all States whose participation is deemed important should participate;
- the zone arrangement should provide for adequate verification of compliance with its provisions;
- the establishment of the zone should not disturb existing security arrangements to the detriment of regional and international security or otherwise abridge the inherent right of individual or collective self-defense guaranteed in the Charter of the United Nations;
- the zone arrangement should effectively prohibit its Parties from developing or otherwise possessing any nuclear device for whatever purpose;
- the establishment of the zone should not affect the existing rights of its Parties under international law to grant or deny other States transit privileges within their respective land territory, internal waters, and airspace to nuclear powered and nuclear capable ships and aircraft of non-party nations, including port calls and overflights; and

- the zone arrangement should not seek to impose restrictions on the exercise of rights recognized under international law, particularly the high seas freedoms of navigation and overflight, the right of innocent passage of territorial and archipelagic seas, the right of transit passage of international straits, and the right of archipelagic sea lanes passage of archipelagic waters.

When the United States first reviewed the Treaty Protocols in 1987, it stated that its practices and activities in the region were not inconsistent with the Treaty or its three Protocols, but declined to sign the Protocols at that time. The end of the Cold War, the dissolution of the Soviet Union, dramatic reductions in the number of nuclear weapons and their delivery systems, and the indefinite extension in 1995 of the NPT have created an environment in which adherence to the Protocols of the South Pacific Nuclear Free Zone (SPNFZ) Treaty has become advantageous to the United States. Meanwhile, the signature and ratification of the SPNFZ Protocols by all the other Protocol Parties and the cessation of all nuclear testing in the South Pacific, in addition to U.S. support for the Comprehensive Nuclear-Test-Ban Treaty, have facilitated U.S. agreement to the Treaty's prohibition on nuclear testing within the zone. Finally, the cooperation of nuclear-weapon States in nuclear-weapon-free zones is important to many Parties to the NPT. Thus, many former concerns regarding the Treaty Protocols on the part of the United States have been resolved, while concurrently the benefits to the United States of ratifying these Protocols have been enhanced.

Article-by-Article Analysis

Protocol 1

Article 1 applies Articles 3, 5, and 6 of the Treaty, insofar as they relate to the prohibition on manufacture, stationing, and testing of any nuclear explosive device and the application of IAEA safeguards within the territories located in the zone for which a Protocol Party is internationally responsible.

As defined in Article 1 of the Treaty, "territory" means "internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them." The obligations undertaken by Protocol 1 Parties are thus restricted in application to a geographic area defined in Annex 1 to the Treaty. The territories for which the United States is internationally responsible within the zone as described in Annex I to the Treaty are American Samoa and Jarvis Island (a small, uninhabited island located about 1,500 miles

south of Hawaii). The United States has never manufactured, stationed, or tested any nuclear explosive device on American Samoa or Jarvis Island.

If the underlying Treaty is amended by the zone Parties after entry into force of Protocol 1, the United States will not be bound to the altered obligations without its written consent. Specifically, Article 2 states that each Protocol 1 Party may accept any alteration to its obligations under this Protocol effected through the Treaty's amendment process by providing written notification to the Treaty's Depositary.

Article 3 lists the states that may sign. The United States, France, and the United Kingdom are eligible to become Parties to Protocol 1, as there are territories within the zone for which they are internationally responsible. Article 4 states that Protocol 1 shall be subject to ratification. The three eligible countries signed Protocol 1 on March 25, 1996. France deposited its instrument of ratification to Protocol 1 on September 20, 1996, and the United Kingdom followed suit on September 19, 1997. The United States signed the Protocol on March 25, 1996, but has not ratified.

Article 5 states that Protocol 1 is "of a permanent nature" and will remain in force indefinitely unless a Protocol 1 Party exercises its right of withdrawal, having decided that "extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme interests." Parties are required to provide three months' notice in advance of withdrawal.

Article 6 declares that Protocol 1 shall enter into force for each Party upon the date of deposit of that Party's instrument of ratification.

Protocol 2

Article 1 states that each Party to Protocol 2 undertakes not to use or threaten to use any nuclear explosive device against any Party to the Treaty or against any territory within the zone for which a Protocol 1 Party is internationally responsible.

Article 2 obligates Protocol 2 Parties not to contribute to any act by a Party to the Treaty or Protocols which constitutes a violation of that Party's respective obligations. This provision does not require the United States to comply with all provisions of the Treaty; rather, it requires the United States not to contribute to a Treaty Party committing its own violation of the Treaty.

Article 3 is identical to Article 2 of Protocol 1, detailed above, with the additional proviso that said alteration could come from extension of the zone to other States pursuant to Article 12(3) of the Treaty (see the discussion regarding this Treaty article below).

Article 4 states that Protocol 2 is open for signature by the United States, China, France, the Soviet Union, and the United Kingdom. Article 5 states that this Protocol is subject to ratification. China signed Protocol 2 on February 10, 1987, and deposited its instrument of ratification on October 21, 1988. The Soviet Union signed Protocol 2 on December 15, 1986, and deposited its instrument of ratification on April 21, 1988. Russia has succeeded to the obligations of the Soviet Union under Protocol 2. The United States, France, and the United Kingdom signed Protocol 2 on March 25, 1996. France deposited its instrument of ratification of Protocol 2 on September 20, 1996, and the United Kingdom did likewise on September 19, 1997.

Article 6 is identical to Article 5 of Protocol 1, detailed above, regarding the right of withdrawal.

Article 7 is identical to Article 6 of Protocol 1, detailed above, regarding entry into force.

I recommend that the United States include the following statement regarding Protocol 2 in its instruments of ratification:

> With respect to Article 1 of Protocol 2, the United States of America will not use or threaten to use nuclear weapons against any Party to the Treaty that is a non-nuclear weapons State Party to the Nuclear Non-Proliferation Treaty (NPT) and in compliance with its nuclear non-proliferation obligations.

Protocol 3

Article 1 obligates each Party to Protocol 3 not to test any nuclear device anywhere within the zone. The zone is defined in Article 1(a) of the Treaty as those areas described and illustrated in Annex 1 of the Treaty. While Article 2 of the Treaty specifies generally that the Treaty and its Protocols shall apply to "territory" with the zone, there is a qualification "[e]xcept where otherwise specified." In this case, the commitment in Article 1 of Protocol 3 not to test "anywhere" in the zone constitutes just such an exception. Therefore, this

prohibition not to test is not limited to the territory of Treaty Parties, but applies throughout the South Pacific Nuclear Free Zone, including maritime areas beyond the sovereignty of any State encompassed by the demarcations of Annex 1. In any event, the United States has never tested any nuclear device in the area demarcated as the South Pacific Nuclear Free Zone.

Article 2 is identical to Article 3 of Protocol 2 regarding acceptance of alterations in the obligations under the Treaty.

Article 3 states that Protocol 3 is open for signature by the United States, China, France, the Soviet Union, and the United Kingdom. Article 4 states that Protocol 3 is subject to ratification. China signed Protocol 3 on February 10, 1987, and deposited its instrument of ratification on October 21, 1988. The Soviet Union signed Protocol 3 on December 15, 1986, and deposited its instrument of ratification on April 21, 1988. Russia has succeeded to the obligations of the Soviet Union under Protocol 3. The United States, France, and the United Kingdom signed Protocol 3 on March 25, 1996. France deposited its instrument of ratification to Protocol 3 on September 20, 1996, and the United Kingdom deposited its instrument of ratification on September 19, 1997.

Articles 5 and 6 are identical to the articles in the previous two Protocols regarding duration, withdrawal, and entry into force.

Entry into force of Protocols 1, 2, and 3 for the United States subject to the recommended statements discussed herein would require no changes in U.S. law, policy, or practice. To make clear that no changes are necessary to bring the United States into compliance with its obligations under the Protocols, and that the Treaty Parties need take no action with respect to the United States in order to comply with their Treaty obligations, I recommend that the United States include the following statement in its instrument of ratification:

> The United States of America declares that its policies and practices are already consistent with the South Pacific Nuclear Free Zone Treaty and its Protocols, and that ratification of the Protocols in no way affects the United States position with regard to other nuclear weapon free zone treaties.

The Treaty

The terms of the Treaty are relevant to the obligations of the United States in that, as previously noted, under Protocol 2 the United States would undertake not to contribute to any act of a Treaty Party that constitutes a violation of the Treaty.

Article 1: Usage of Terms

Article 1 defines certain terms used in the Treaty and its Protocols. The "South Pacific Nuclear Free Zone" is defined as the areas described in Annex 1 and depicted in a map at the end of that Annex. "Territory" is defined as "internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them." Article 1 also defines a "nuclear explosive device" as "any nuclear weapon or other explosive device capable of releasing nuclear energy." The definition includes so-called "peaceful" nuclear explosive devices, as well as devices in unassembled or partially assembled form. Finally, Article 1 defines "stationing" as "emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment." Reading this definition, along with the provision in Article 5(2) that Treaty Parties remain free to decide whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage, or transit passage of straits, it is clear that the term "stationing" does not include such visits, transits, and navigation.

Article 2: Application of the Treaty

Article 2(1) applies the Treaty and its Protocols, "except where otherwise specified," to territory within the South Pacific Nuclear Free Zone as described in Annex 1 of the Treaty. Article 2(2) of the Treaty states that nothing in the Treaty prejudices or in any way affects the rights, or the exercise of the rights, of any State under international law with regard to the freedom of the seas. Article 5(2), discussed below, complements Article 2(2) in that it recognizes the right of a State Party to decide for itself whether to permit transit or port visits by foreign vessels and aircraft within its territory.

Article 3: Renunciation of Nuclear Explosive Devices

Article 3 obligates Parties: (a) not to manufacture or otherwise acquire, possess, or have control over any nuclear explosive device by any means anywhere inside or outside the zone; (b) not to seek or receive any assistance in the manufacture or acquisition of any nuclear explosive device; and (c) not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State. These obligations constitute the core commitments made by States Parties to the Treaty. They are not limited to the territory of a Party or even to the South Pacific Nuclear Free Zone; rather, they are global commitments undertaken by each State Party upon ratification of the Treaty.

Article 4: Peaceful Nuclear Activities

Article 4 requires Parties not to provide "source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes" to any non-nuclear-weapon State unless it has accepted full-scope safeguards or any nuclear-weapon State unless the material or equipment is subject to International Atomic Energy Agency (IAEA) safeguards. The requirement of full-scope safeguards reinforces a long-held policy of the United States, adopted by the Nuclear Suppliers Group. Article 4(b) requires each Party "to support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguards system." This would include complying with the prohibitions in Article II of the NPT, implementing the export conditions in Article III.2 of the NPT, and complying with a bilateral safeguards agreement with the IAEA (the model IAEA safeguards agreement for NPT Parties is contained in IAEA document INFCIRC/153).

Article 5: Prevention of Stationing of Nuclear Explosive Devices

Article 5 (1) proscribes the stationing of any nuclear explosive device in the territory of any Party. Stationing is defined in Article 1 of the Treaty as "emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation, and deployment." The term "inland waters" does not have an accepted meaning in international law. To clarify that U.S. rights are not adversely affected, I recommend that the United States include the following statements in the U.S. instrument of ratification:

> The United States of America understands the term "inland waters" as used in the South Pacific Nuclear Free Zone Treaty to exclude waters used in connection with maritime navigation.

> The United States of America understands the term "stationing" as used in the South Pacific Nuclear Free Zone Treaty and its Protocols not to include the temporary off-load or transshipment of nuclear weapons.

Article 5(2) states that each Party remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage, or transit passage of straits. Thus, in addition to reinforcing the statement in Article 2(2) that the Treaty does not prejudice rights regarding freedom of the seas, this statement confirms that any State Party could choose to accept a visit from a U.S. ship or aircraft on which the presence of nuclear explosive devices had neither been confirmed nor denied. There would be no basis in the Treaty or Protocols for another State Party to object to such a visit.

Ratification of these Protocols by the United States will not affect existing rights under international law permitting nuclear-powered vessels and vessels carrying nuclear weapons to transit the zone and permitting aircraft carrying nuclear weapons to overfly the zone. However, because the Treaty does not expressly state this point, I recommend that the United States include the following statement in its instrument of ratification:

> The United States of America understands that nothing in the South Pacific Nuclear Free Zone Treaty and its Protocols affects rights under international law of a State adhering to the Protocols regarding the exercise of the freedom of the seas, including passage through or over waters subject to the sovereignty of a State, as reflected in the 1982 United Nations Convention on the Law of the Sea.

Article 6: Prevention of Testing of Nuclear Explosive Devices

Each Party to the Treaty undertakes to prevent the testing of any nuclear explosive device in its territory and not to take any action to assist or encourage the testing of any nuclear explosive device by any State.

Article 7: Prevention of Dumping

Article 7 requires the Parties: (1) not to dump radioactive wastes and other radioactive matter at sea anywhere within the zone; (2) to prevent the dumping of radioactive wastes and other radioactive matter at sea by anyone in its territorial seas; and (3) not to assist or encourage anyone in dumping radioactive wastes and other radioactive matter at sea anywhere in the zone. To ensure clarity and consistency with existing international legal obligations of the United States (*e.g.*, under the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter), I recommend that the United States include the following statement in its instrument of ratification:

> The United States of America understands the term "dumping" as used in the South Pacific Nuclear Free Zone Treaty to be identical to that term as defined in the 1982 United Nations Convention on the Law of the Sea.

Articles 8-10: Control System, Reports and Exchanges of Information, Consultations and Review

Articles 8, 9, and 10, along with Annexes 2, 3, and 4, establish a control system for verifying compliance with the Treaty. Annex 2 requires that each Party must have in place a safeguards agreement with the IAEA that is at least equivalent in scope and effect to that required of NPT non-nuclear-weapon States. Since all of the States in the South Pacific are non-nuclear-weapon-state Parties to the NPT, they are also required to bring such safeguards agreements into force under that Treaty. The purpose of these safeguards is to ensure the early detection of any diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices.

Since the obligations of Treaty Parties go beyond the non-diversion of nuclear materials, the Treaty sets up additional controls to ensure compliance. This system consists of information exchange and complaint procedures that can lead to special inspections. Each Party is required to report relevant information to the Director of the South Pacific Bureau for Economic Cooperation (the Director), who is then charged with circulating this information to the other Parties and to the Pacific Islands Forum. In addition to serving this clearinghouse function, the Director receives complaints from States Parties of noncompliance, and is empowered to convene at the request of any Party the Consultative Committee, on which each Treaty Party is represented. After considering the complaint and any explanations offered, the Consultative Committee may decide to direct that a special inspection be conducted of the Party complained of. (Decisions of the

Consultative Committee are by consensus or, failing consensus, by a two-thirds vote.) If the Committee concludes, as a result of such an inspection, that a breach of the Treaty has occurred, a meeting of the Pacific Islands Forum on the matter must be promptly convened. Since 1993, the responsibilities of the Director have been transferred to the Secretary General of the Pacific Islands Forum, as explained below.

Article 11: Amendment

Article 11 provides for amendment of the Treaty. Proposals for amendment must first obtain consensus approval by the Consultative Committee. Once this is achieved, the amendment is circulated to each Treaty Party for acceptance in the manner required by its domestic law. An amendment so approved enters into force thirty days after the deposit of instruments of acceptance by all Treaty Parties.

Article 12: Signature and Ratification

Under Article 12(1), members of the Pacific Islands Forum may become Parties to the Treaty. The Treaty is in force for the following Pacific Islands Forum members: Australia, Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

The Pacific Islands Forum members that have not signed the Treaty are the Federated States of Micronesia, the Marshall Islands, and Palau. The Treaty currently does not include these countries, although the zone boundaries would be deemed to be amended to include them if they became Parties to the Treaty, per Article 12, paragraph 3. The United States has full authority and responsibility for security and defense matters in or relating to the Federated States of Micronesia, the Marshall Islands, and Palau under the Compacts of Free Association between the United States and each of these States (known collectively as "the Compact States"). Although the Compact States have the capacity to enter into international agreements, they are required by their respective Compacts to consult with the United States in the conduct of their foreign affairs and to refrain from taking any actions that the United States determines to be incompatible with its authority and responsibility for security and defense matters. Should any one of these freely associated States wish to become a party to the South Pacific Nuclear Free Zone Treaty, the United States would have the right to object, unless it was determined that its doing so would not be incompatible with the authority and responsibility of the United States for security and defense matters related to that State.

Because the Compact States are not within the zone as set forth in Annex 1 to the Treaty, the United States ratification of Protocol 1 would not affect U.S. security activities in, or related to, the Compact States. If one or more of the Compact States were to become Parties to the Treaty, they would be in the zone, and the question would arise as to whether they are "territories for which [the United States] is internationally responsible" within the meaning of Protocol 1.

Article 12(2) designates the Director of the South Pacific Bureau for Economic Co-operation (SPEC) as the depositary for the Treaty. The position of Director of the SPEC Secretariat was created by the 1973 Agreement establishing the SPEC. The SPEC agreement was terminated and replaced on April 23, 1993 by Article XIV of the 1991 Agreement Establishing the South Pacific Forum Secretariat. The Secretary General of the South Pacific Forum has succeeded to all rights and obligations validly acquired or incurred by the SPEC Director, including the duty to serve as the depositary for the SPNFZ Treaty and its protocols. The South Pacific Forum was renamed the Pacific Islands Forum on October 30, 2000 by Article I of the Agreement Establishing the Pacific Islands Forum Secretariat.

As previously noted, under Article 12(3) of the Treaty, should any member of the Pacific Islands Forum whose territory is outside the South Pacific Nuclear Free Zone (*i.e.*, the Federated States of Micronesia, the Marshall Islands, and Palau) adhere to the Treaty after its entry into force, Annex 1 of the Treaty would be amended to include at least the territory of that State. The delineation of any area added under this paragraph would be subject to the approval of the Pacific Islands Forum. In addition, Article 3 of Protocol 2 and Article 2 of Protocol 3 would allow Parties to Protocols 2 and 3 to determine if they agreed to be bound by the extension of the zone pursuant to Article 12(3) of the Treaty.

Article 13: Withdrawal

Article 13 provides that, in the event that a State Party breaches a provision that is "essential to the achievement of the objectives of the Treaty or the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty." It should be noted that Parties to the Treaty are not able to withdraw based on "extraordinary events" that jeopardize their "supreme interests," as Parties to the Protocols are able to do.

Article 14: Reservations

Article 14 states that the Treaty is not subject to reservations.

Article 15: Entry Into Force

Under Article 15, the Treaty entered into force on the date of deposit of the eighth instrument of ratification with the depositary. Australia deposited the eighth instrument of ratification on December 11, 1986, bringing the Treaty into force.

Article 16: Depositary Functions

Article 16 sets forth the functions of the Depositary, including its duty to notify any State eligible to sign the Treaty or its Protocols in the event of any additional signatures or ratifications of these documents. As noted above, while Article 12(2) of the Treaty designates the Director of the SPEC as the Depositary for the Treaty, that role has now been assumed by the Secretary General of the Pacific Islands Forum.

Annex 1: South Pacific Nuclear Free Zone

Annex 1 of the Treaty delineates the boundaries of the zone through the use of longitudinal and latitudinal reference points and defined maritime terms. Annex 1 also includes a map of the zone. It is worth noting that Article 2 of the Treaty states that the Treaty and its Protocols shall, unless otherwise stated, apply to *territory* within the zone. Thus, as a general matter, the obligations of the Treaty or Protocol Parties do not extend to the high seas or any State's exclusive economic zone within the zone (or the airspace above the high seas or exclusive economic zone).

Annex 2: International Atomic Energy Agency (IAEA) Safeguards

Annex 2 of the Treaty elaborates on the obligations in Article 8(c) of the Treaty that States Parties must apply IAEA safeguards to their peaceful nuclear activities. This Annex requires Treaty Parties to adopt safeguards equivalent in scope to those applied to non-nuclear-weapon-state Parties to the NPT. Article III of the NPT requires such States to accept safeguards on "all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere." Procedures for implementing these safeguards are set forth in IAEA document INFCIRC/153 (corrected). Annex 2 specifies that the purpose of the safeguards required by Article 8 of the SPNFZ Treaty is to verify "the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices." Finally, Annex 2

requires each Treaty Party to transmit, upon the request of another Party, a copy of the overall conclusions of the IAEA's most recent inspection of that Party. The report is to be sent both to the requesting Party and to the Director of the SPEC.

Annex 3: Consultative Committee

Annex 3 establishes the Consultative Committee referred to in Articles 10 and 11 of the Treaty. The Consultative Committee is composed of one representative of each Treaty Party. In order for the Committee to make decisions, at least one-half of the Parties to the Treaty must be represented. Decisions may be taken by a two-thirds majority of those present and voting, except that a consensus is required for the Committee to forward a proposed amendment for distribution to the Parties. The Consultative Committee plays a critical role in resolving complaints by States Parties of noncompliance.

Annex 4: Complaints Procedure

The complaints procedure, set out in Annex 4 of the Treaty, has been summarized in the discussion of Articles 8-10 above.

SOUTH PACIFIC NUCLEAR FREE ZONE

T R E A T Y

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

The Parties to this Treaty

United in their commitment to a world at peace;

Gravely concerned that the continuing nuclear arms race presents the risk of nuclear war which would have devastating consequences for all people;

Convinced that all countries have an obligation to make every effort to achieve the goal of eliminating nuclear weapons, the terror which they hold for humankind and the threat which they pose to life on earth;

Believing that regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all;

Determined to ensure, so far as lies within their power, that the bounty and beauty of the land and sea in their region shall remain the heritage of their peoples and their descendants in perpetuity to be enjoyed by all in peace;

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing to world security;

Noting, in particular, that Article VII of the NPT recognises the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

Noting that the prohibitions of emplantation and emplacement of nuclear weapons on the seabed and the ocean floor and in the subsoil thereof contained in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof apply in the South Pacific;

Noting also that the prohibition of testing of nuclear weapons in the atmosphere or under water, including territorial waters or high seas, contained in the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water applies in the South Pacific;

Determined to keep the region free of environmental pollution by radioactive wastes and other radioactive matter,

Guided by the decision of the Fifteenth South Pacific Forum at Tuvalu that a nuclear free zone should be established in the region at the earliest possible opportunity in accordance with the principles set out in the communique of that meeting;

Have Agreed as follows:

ARTICLE 1

USAGE OF TERMS

For the purposes of this Treaty and its Protocols:

(a) "South Pacific Nuclear Free Zone" means the areas described in Annex 1 as illustrated by the map

attached to that Annex;

(b) "territory" means internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them;

(c) "nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

(d) "stationing" means emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment.

ARTICLE 2

APPLICATION OF THE TREATY

1. Except where otherwise specified, this Treaty and its Protocols shall apply to territory within the South Pacific Nuclear Free Zone.

2. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas.

ARTICLE 3

RENUNCIATION OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) not to manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone;

(b) not to seek or receive any assistance in the manufacture or acquisition of any nuclear explosive device;

(c) not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State.

ARTICLE 4

PEACEFUL NUCLEAR ACTIVITIES

Each Party undertakes:

(a) not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to:

(i) any non-nuclear-weapon State unless subject to the safeguards required by

Article III.1 of the NPT, or

(ii) any nuclear-weapon State unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

Any such provision shall be in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use;

(b) to support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguards system.

ARTICLE 5

PREVENTION OF STATIONING OF NUCLEAR EXPLOSIVE DEVICES

1. Each Party undertakes to prevent in its territory the stationing of any nuclear explosive device.

2. Each Party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lanes passage or transit passage of straits.

ARTICLE 6

PREVENTION OF TESTING OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) to prevent in its territory the testing of any nuclear explosive device;

(b) not to take any action to assist or encourage the testing of any nuclear explosive device by any State

ARTICLE 7

PREVENTION OF DUMPING

1. Each Party undertakes:

(a) not to dump radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;

(b) to prevent the dumping of radioactive wastes and other radioactive matter by anyone in its territorial sea;

(c) not to take any action to assist or encourage the dumping by anyone of radioactive wastes and other radioactive matter at sea anywhere within the South

Pacific Nuclear Free Zone;

(d) to support the conclusion as soon as possible of the proposed Convention relating to the protection of the natural resources and environment of the South Pacific region and its Protocol for the prevention of pollution of the South Pacific region by dumping, with the aim of precluding dumping at sea of radioactive wastes and other radioactive matter by anyone anywhere in the region.

2. Paragraphs 1 (a) and 1 (b) of this Article shall not apply to areas of the South Pacific Nuclear Free Zone in respect of which such a Convention and Protocol have entered into force.

ARTICLE 8

CONTROL SYSTEM

1. The Parties hereby establish a control system for the purpose of verifying compliance with their obligations under this Treaty.

2. The control system shall comprise:

(a) reports and exchange of information as provided for in Article 9;

(b) consultations as provided for in Article 10 and Annex 4 (1);

(c) the application to peaceful nuclear activities of safeguards by the IAEA as provided for in Annex 2;

(d) a complaints procedure as provided for in Annex 4.

ARTICLE 9

REPORTS AND EXCHANGES OF INFORMATION

1. Each Party shall report to the Director of the South Pacific Bureau for Economic Co-operation (the Director) as soon as possible any significant event within its jurisdiction affecting the implementation of this Treaty. The Director shall circulate such reports promptly to all Parties.

2. The Parties shall endeavour to keep each other informed on matters arising under or in relation to this Treaty. They may exchange information by communicating it to the Director, who shall circulate it to all parties.

3. The Director shall report annually to the South Pacific Forum on the status of this Treaty and matters arising under or in relation to it, incorporating reports and communications made under paragraphs 1 and 2 of this Article and matters arising under Articles 8 (2)(d) and 10 and Annex 2 (4).

ARTICLE 10

CONSULTATIONS AND REVIEW

Without prejudice to the conduct of consultations among Parties by other means, the Director, at the request of any Party, shall convene a meeting of the Consultative Committee established by Annex 3 for consultation and co-operation on any matter arising in relation to this Treaty or for reviewing its operation.

ARTICLE 11

AMENDMENT

The Consultative Committee shall consider proposals for amendment of the provisions of this Treaty proposed by any Party and circulated by the Director to all Parties not less than three months prior to the convening of the Consultative Committee for this purpose. Any proposal agreed upon by consensus by the Consultative Committee shall be communicated to the Director who shall circulate it for acceptance to all Parties. An amendment shall enter into force thirty days after receipt by the depositary of acceptances from all Parties.

ARTICLE 12

SIGNATURE AND RATIFICATION

1. This Treaty shall be open for signature by any Member of the South Pacific Forum.

2. This Treaty shall be subject to ratification. Instruments of ratification shall be deposited with the Director who is hereby designated depositary of this Treaty and its Protocols.

3. If a Member of the South Pacific Forum whose territory is outside the South Pacific Nuclear Free Zone becomes a Party to this Treaty, Annex 1 shall be deemed to be amended so far as is required to enclose at least the territory of that Party within the boundaries of the South Pacific Nuclear Free Zone. The delineation of any area added pursuant to this paragraph shall be approved by the South Pacific Forum.

ARTICLE 13

WITHDRAWAL

1. This Treaty is of a permanent nature and shall remain in force indefinitely, provided that in the event of a violation by any Party of a provision of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty.

2. Withdrawal shall be effected by giving notice twelve months in advance to the Director who shall circulate such notice to all other Parties.

ARTICLE 14

RESERVATIONS

This Treaty shall not be subject to reservations.

ARTICLE 15

ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of deposit of the eighth instrument of ratification.

2. For a signatory which ratifies this Treaty after the date of deposit of the eighth instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification.

ARTICLE 16

DEPOSITARY FUNCTIONS

The depositary shall register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations and shall transmit certified copies of the Treaty and its Protocols to all Members of the South Pacific Forum and all States eligible to become Party to the Protocols to the Treaty and shall notify them of signatures and ratifications of the Treaty and its Protocols.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Treaty.

For the Government of Australia: .....

For the Government of Cook Islands: .....

For the Government of Fiji: .....

For the Government of Kiribati: .....

For the Government of Nauru: .....
17. 7. 85.

For the Government of New Zealand: .....

For the Government of Niue: .....

For the Government of Papua New Guinea: .....
16. 9. 85.

For the Government of
Solomon Islands: .....
29/5/87

For the Government of Tonga: .....

For the Government of Tuvalu: .....

For the Government of Vanuatu: .....

For the Government of Western Samoa: .....

DONE at Rarotonga , this Sixth day of August , One thousand nine hundred and eightyfive , in a single original in the English language.

ANNEX 1

SOUTH PACIFIC NUCLEAR FREE ZONE

A. The area bounded by a line -

(1) commencing at the point of intersection of the Equator by the maritime boundary between Indonesia and Papua New Guinea;

(2) running thence northerly along that maritime boundary to its intersection by the outer limit of the Exclusive Economic Zone of Papua New Guinea;

(3) thence generally north-easterly, easterly and south-easterly along that outer limit to its intersection by the Equator;

(4) thence east along the Equator to its intersection by the meridian of Longitude 163 degrees East;

(5) thence north along that meridian to its intersection by the parallel of Latitude 3 degrees North;

(6) thence east along that parallel to its intersection by the meridian of Longitude 171 degrees East;

(7) thence north along that meridian to its intersection by the parallel of Latitude 4 degrees North;

(8) thence east along that parallel to its intersection by the meridian of Longitude 180 degrees East;

(9) thence south along that meridian to its intersection by the Equator;

(10) thence east along the Equator to its intersection by the meridian of Longitude 165 degrees West;

(11) thence north along that meridian to its intersection by the parallel of Latitude 5 degrees 30 minutes North;

(12) thence east along that parallel to its intersection by the meridian of Longitude 154 degrees West;

(13) thence south along that meridian to its intersection by the Equator;

(14) thence east along the Equator to its intersection by the meridian of Longitude 115 degrees West;

(15) thence south along that meridian to its intersection by the parallel of Latitude 60 degrees South;

(16) thence west along that parallel to its intersection by the meridian of Longitude 115 degrees East;

(17) thence north along that meridian to its southernmost intersection by the outer limit of the territorial sea of Australia;

(18) thence generally northerly and easterly along the outer limit of the territorial sea of Australia to its intersection by the meridian of Longitude 136 degrees 45 minutes East;

(19) thence north-easterly along the geodesic to the point of Latitude 10 degrees 50 minutes South, Longitude 139 degrees 12 minutes East;

(20) thence north-easterly along the maritime boundary between Indonesia and Papua New Guinea to where it joins the land border between those two countries;

(21) thence generally northerly along that land border to where it joins the maritime boundary between Indonesia and Papua New Guinea, on the northern coastline of Papua New Guinea; and

(22) thence generally northerly along that boundary to the point of commencement.

B. The areas within the outer limits of the territorial seas of all Australian islands lying westward of the area described in paragraph A and north of Latitude 60 degrees South, provided that any such areas shall cease to be part of the South Pacific Nuclear Free Zone upon receipt by the depositary of written notice from the Government of Australia stating that the areas have become subject to another treaty having an object and purpose substantially the same as that of this Treaty.

ANNEX 2

IAEA SAFEGUARDS

1. The safeguards referred to in Article 8 shall in respect of each party be applied by the IAEA as set forth in an agreement negotiated and concluded with the IAEA on all source or special fissionable material in all peaceful nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.

2. The agreement referred to in paragraph 1 shall be, or shall be equivalent in its scope and effect to, an agreement required in connection with the NPT on the basis of the material reproduced in document INFCIRC/153 (Corrected) of the IAEA. Each Party shall take all appropriate steps to ensure that such an agreement is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.

3. For the purposes of this Treaty, the safeguards referred to in paragraph 1 shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices.

4. Each Party agrees upon the request of any other Party to transmit to that Party and to the Director for the information of all Parties a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned, and to advise the Director promptly of any subsequent

findings of the Board of Governors of the IAEA in relation to those conclusions for the information of all Parties.

ANNEX 3

CONSULTATIVE COMMITTEE

1. There is hereby established a Consultative Committee which shall be convened by the Director from time to time pursuant to Article 10 and 11 and Annex 4 (2). The Consultative Committee shall be constituted of representatives of the Parties, each Party being entitled to appoint one representative who may be accompanied by advisers. Unless otherwise agreed, the Consultative Committee shall be chaired at any given meeting by the representative of the Party which last hosted the meeting of Heads of Government of Members of the South Pacific Forum. A quorum shall be constituted by representatives of half the Parties. Subject to the provisions of Article 11, decisions of the Consultative Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of those present and voting. The Consultative Committee shall adopt such other rules of procedure as it sees fit.

2. The costs of the Consultative Committee, including the costs of special inspections pursuant to Annex 4, shall be borne by the South Pacific Bureau for Economic Co-operation. It may seek special funding should this be required.

ANNEX 4

COMPLAINTS PROCEDURE

1. A Party which considers that there are grounds for a complaint that another Party is in breach of its obligations under this Treaty shall, before bringing such a complaint to the Director, bring the subject matter of the complaint to the attention of the Party complained of and shall allow the latter reasonable opportunity to provide it with an explanation and to resolve the matter.

2. If the matter is not so resolved, the complainant Party may bring the complaint to the Director with a request that the Consultative Committee be convened to consider it. Complaints shall be supported by an account of evidence of breach of obligations known to the complainant Party. Upon receipt of a complaint the Director shall convene the Consultative Committee as quickly as possible to consider it.

3. The Consultative Committee, taking account of efforts made under paragraph 1, shall afford the Party complained of a reasonable opportunity to provide it with an explanation of the matter.

4. If, after considering any explanation given to it by the representatives of the Party complained of, the Consultative Committee decides that there is sufficient substance in the complaint to warrant a special inspection in the territory of that Party or elsewhere, the Consultative Committee shall

direct that such special inspection be made as quickly as possible by a special inspection team of three suitably qualified special inspectors appointed by the Consultative Committee in consultation with the complained of and complainant Parties, provided that no national of either Party shall serve on the special inspection team. If so requested by the Party complained of, the special inspection team shall be accompanied by representatives of that Party. Neither the right of consultation on the appointment of special inspectors, nor the right to accompany special inspectors, shall delay the work of the special inspection team.

5. In making a special inspection, special inspectors shall be subject to the director only of the Consultative Committee and shall comply with such directives concerning tasks, objectives, confidentiality and procedures as may be decided upon by it. Directives shall take account of the legitimate interests of the Party complained of in complying with its other international obligations and commitments and shall not duplicate safeguards procedures to be undertaken by the IAEA pursuant to agreements referred to in Annex 2 (1). The special inspectors shall discharge their duties with due respect for the laws of the Party complained of.

6. Each Party shall give to special inspectors full and free access to all information and places within its territory which may be relevant to enable the special inspectors to implement the directives given to them by the Consultative

Committee.

7. The Party complained of shall take all appropriate steps to facilitate the special inspection, and shall grant to special inspectors privileges and immunities necessary for the performance of their functions, including inviolability for all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken and written, for the purpose of the special inspection.

8. The special inspectors shall report in writing as quickly as possible to the Consultative Committee, outlining their activities, setting out relevant facts and information as ascertained by them, with supporting evidence and documentation as appropriate, and stating their conclusions. The Consultative Committee shall report fully to all Members of the South Pacific Forum, giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.

9. If the Consultative Committee has decided that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, or at any time at the request of either the complainant or complained of Party, the Parties shall meet promptly at a meeting of the South Pacific Forum.

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

PROTOCOL 1

PROTOCOL 1

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the South Pacific Nuclear Free Zone, the prohibitions contained in Articles 3, 5 and 6, insofar as they related to the manufacture, stationing and testing of any nuclear explosive device within those territories, and the safeguards specified in Article 8(2)(c) and Annex 2 of the Treaty.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty.

ARTICLE 3

This Protocol shall be open for signature by the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 4

This Protocol shall be subject to ratification.

ARTICLE 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardised its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardised its supreme interests.

ARTICLE 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Protocol.

DONE at **SUVA**, this Eighth day of August, One thousand nine hundred and eighty-six, in a single original in the English language.

For the French Republic .....

5

For the United Kingdom of Great Britain and Northern Ireland .....

For the United States of America .....

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

PROTOCOL 2

PROTOCOL 2

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to use or threaten to use any nuclear explosive device against:

a) Parties to the Treaty; or

b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible.

ARTICLE 2

Each Party undertakes not to contribute to any act of a Party to the Treaty which constitutes a violation of the Treaty, or to any act of another Party to a Protocol which constitutes a violation of a Protocol.

ARTICLE 3

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

ARTICLE 4

This Protocol shall be open for signature by the French Republic, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 5

This Protocol shall be subject to ratification.

ARTICLE 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardised its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardised its supreme interests.

ARTICLE 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Protocol.

DONE at **SUVA,** this Eighth day of August, One thousand nine hundred and eighty-six, in a single original in the English language.

For the People's Republic of China .....

1987. 2. 10

For the French Republic .....

For the United Kingdom of Great
Britain and Northern Ireland .....

7

For the Union of
Soviet Socialist Republics .....

15.XII.86 г.

For the United States of America .....

SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

PROTOCOL 3

PROTOCOL 3

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have Agreed as follows:

ARTICLE 1

Each Party undertakes not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

ARTICLE 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

ARTICLE 3

This Protocol shall be open for signature by the French Republic, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE 4

This Protocol shall be subject to ratification.

ARTICLE 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardised its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardised its supreme interests.

ARTICLE 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorised by their Governments, have signed this Protocol.

DONE at **SUVA** this Eighth day of August, One thousand nine hundred and eighty-six, in a single original in the English language.

For the People's Republic of China

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1987.2.10

For the French Republic .....

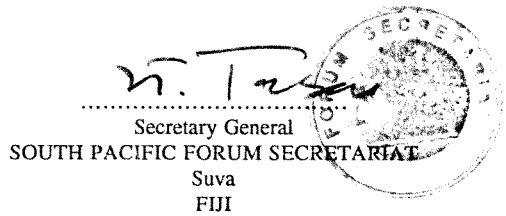
For the United Kingdom of Great
Britain and Northern Ireland .....

For the Union of the
Soviet Socialist Republics .....

15. XII. 86 г.

For the United States of America .....

CERTIFIED A TRUE COPY



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Secretary General
SOUTH PACIFIC FORUM SECRETARIAT
Suva
FIJI