

Maritime Boundary Negotiations

National Considerations

Dr. Robert W. Smith

ABLOS: ADDRESSING DIFFICULT

ISSUES IN UNCLOS

28 OCTOBER 2003

Practical Steps in the Negotiating Process

- 1. The Delimitation Process**
- 2. Building and Preparing a Team**
- 3. The Negotiations**
- 4. Domestic Political Considerations**
- 5. Elements of a Good Boundary**

Agreement

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Boundary delimitation process

**Boundaries should be established
by agreement**

Boundary treaty : permanent

Stumbling Blocks to Maritime Boundary Delimitation

▶ ▶ ★ **Political Will (Relations)**

▶ ▶ ★ **Sovereignty Disputes**

★ **Treaty interpretation**

↩ **Perceived geographic imbalance**

Island Disputes

- 1. Dispute over the sovereignty of the island itself.**
- 2. Dispute over the effect the island(s) may have on the delimitation of the adjacent maritime space.**

JAPAN'S ISLAND DISPUTES

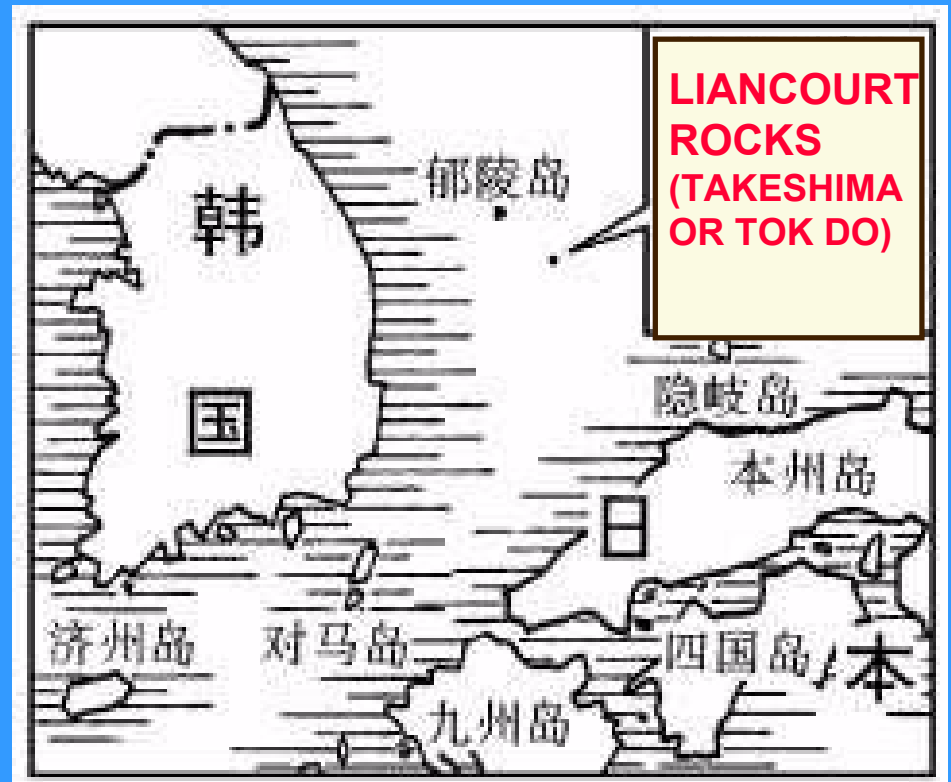


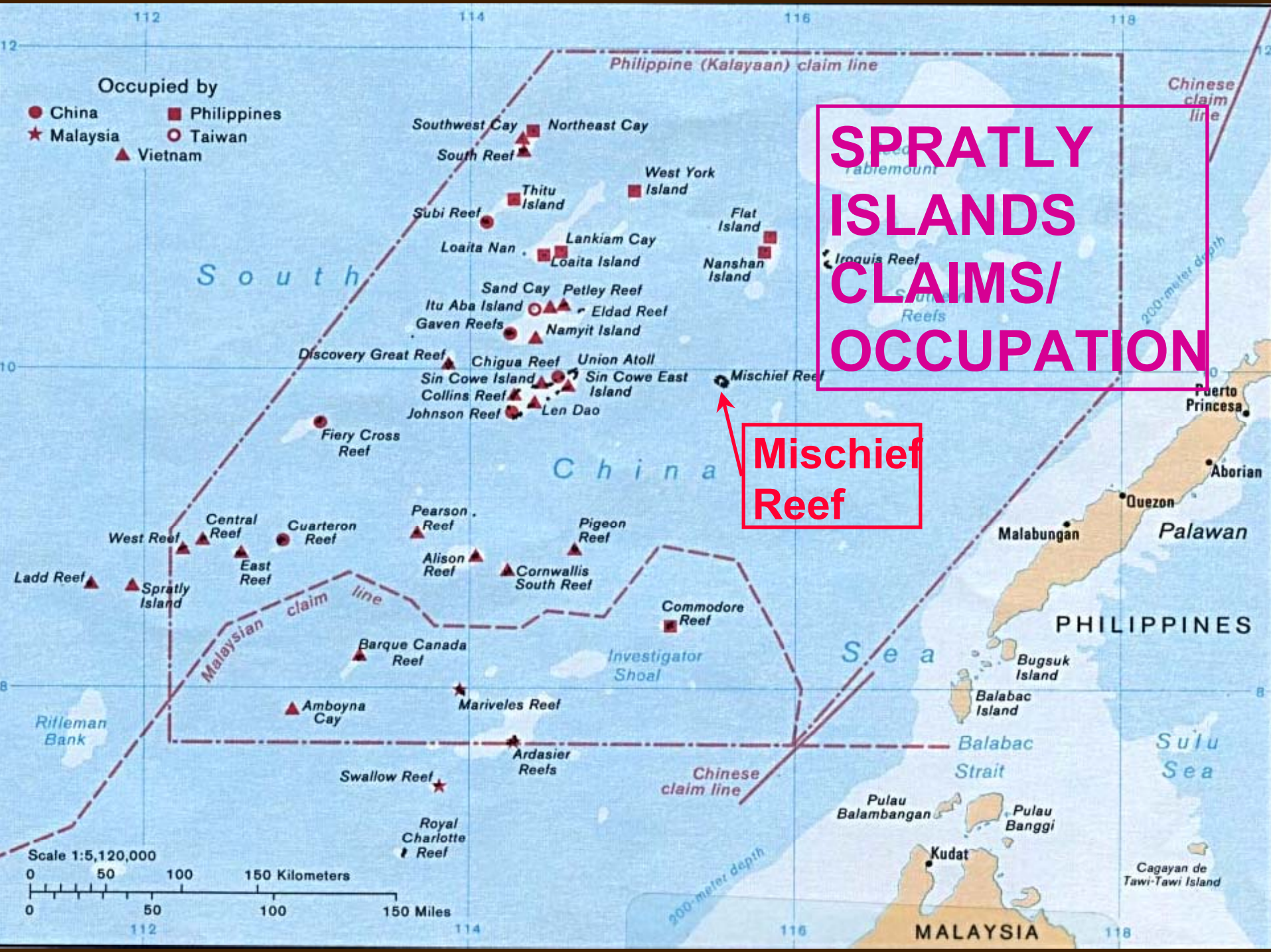
KURILE ISLANDS
“Northern Territories”
(JAPAN-RUSSIA)

LIANCOURT ROCKS
(JAPAN- S. KOREA)

SENKAKU ISLANDS
(JAPAN-CHINA)

LIANCOURT ROCKS





Spratly Island (occupied by Vietnam)



Thitu Island

(occupied by The Philippines)



Machias Seal Island (United States)



Atlantic Puffin



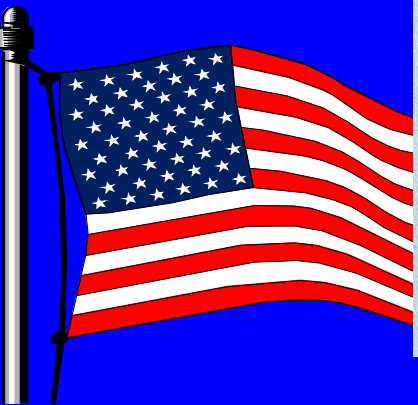
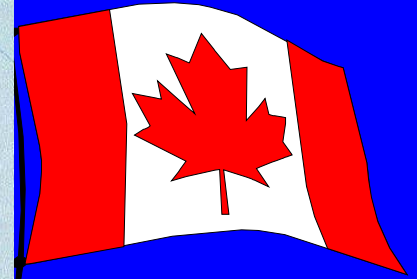
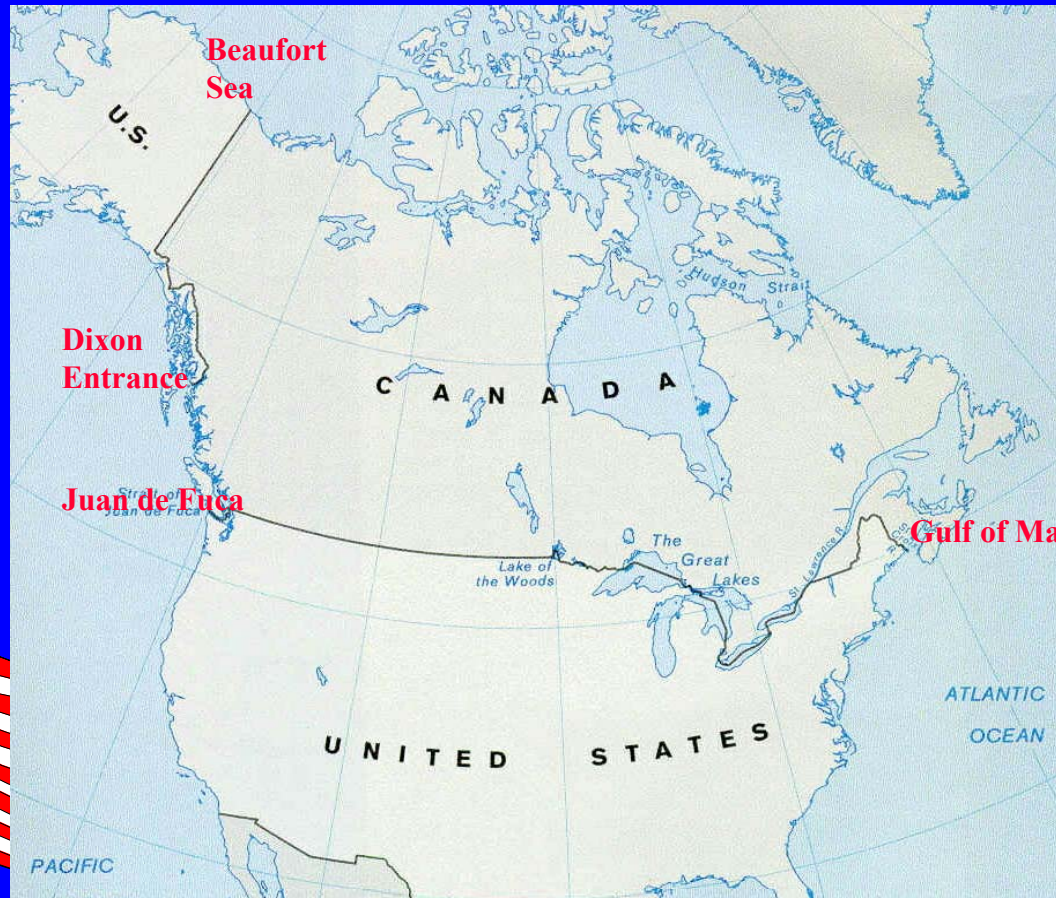
Stumbling Blocks to Maritime Boundary Delimitation

★ Sovereignty Disputes

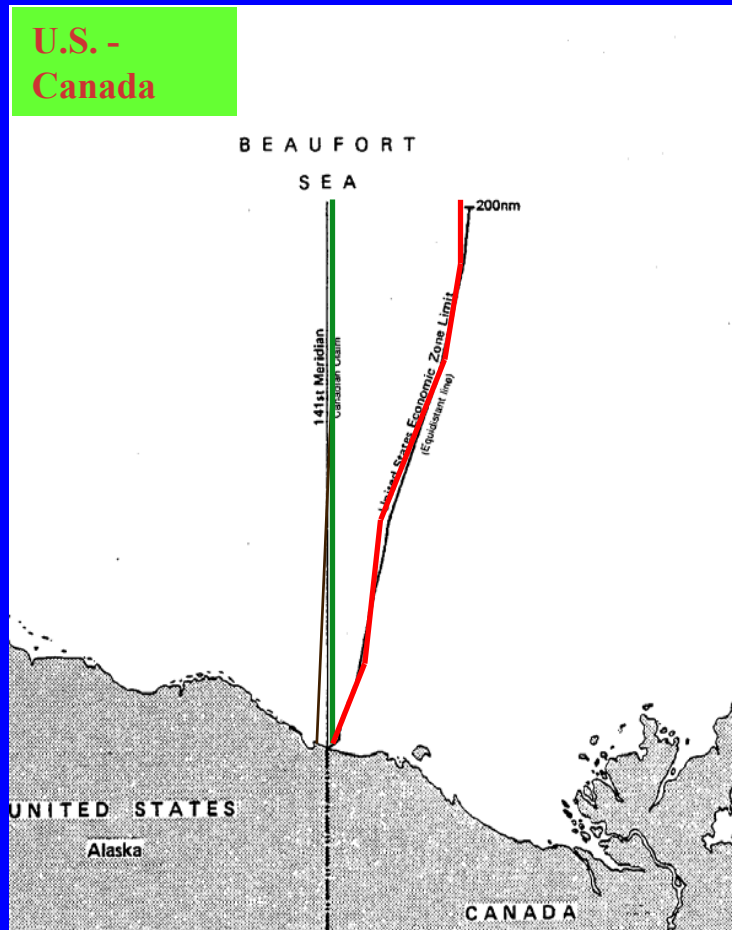
▶ ▶ **★ Treaty interpretation**

★ Perceived geographic imbalance

United States- Canada Maritime Boundaries



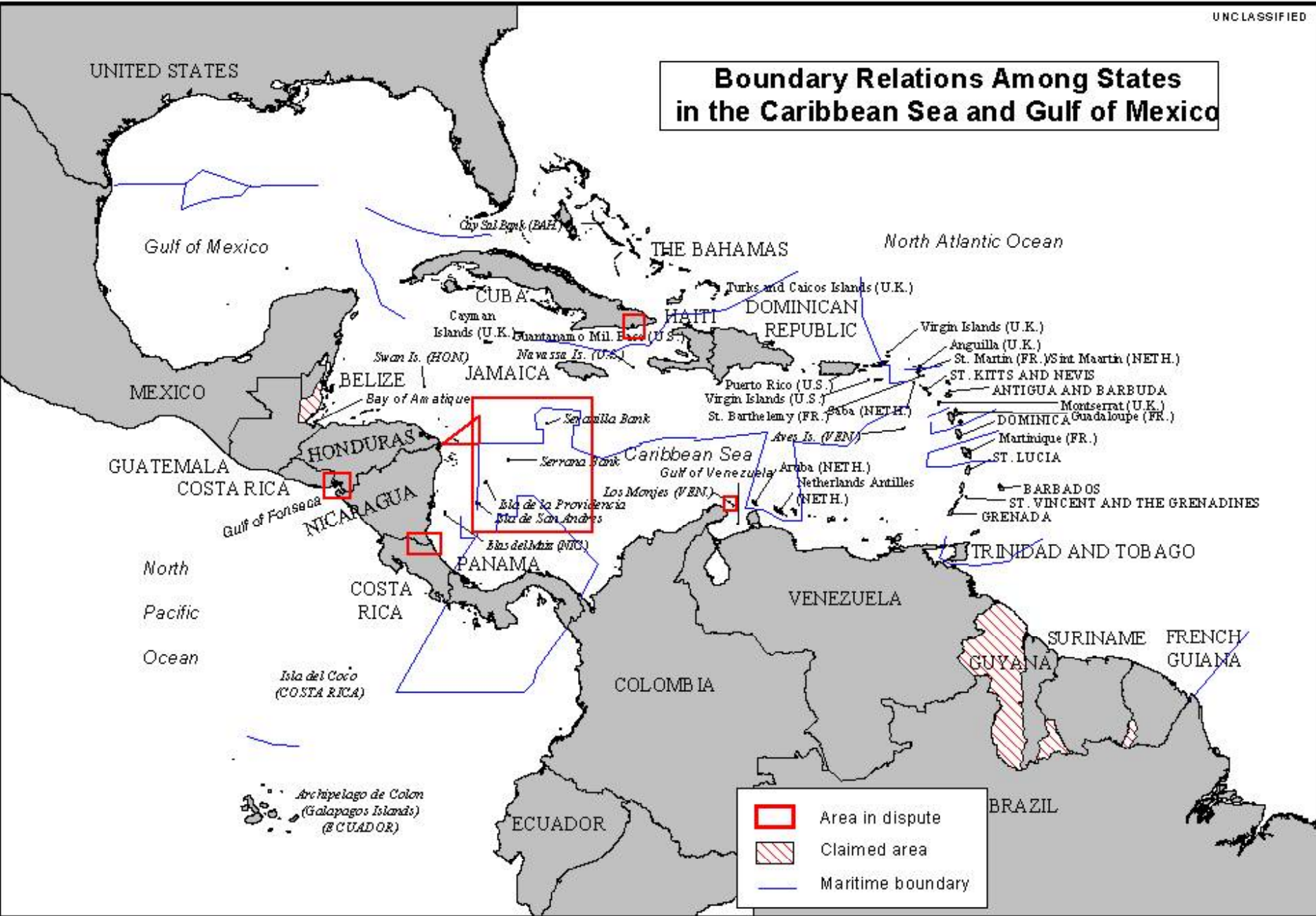
Beaufort Sea



DIXON ENTRANCE



Boundary Relations Among States in the Caribbean Sea and Gulf of Mexico



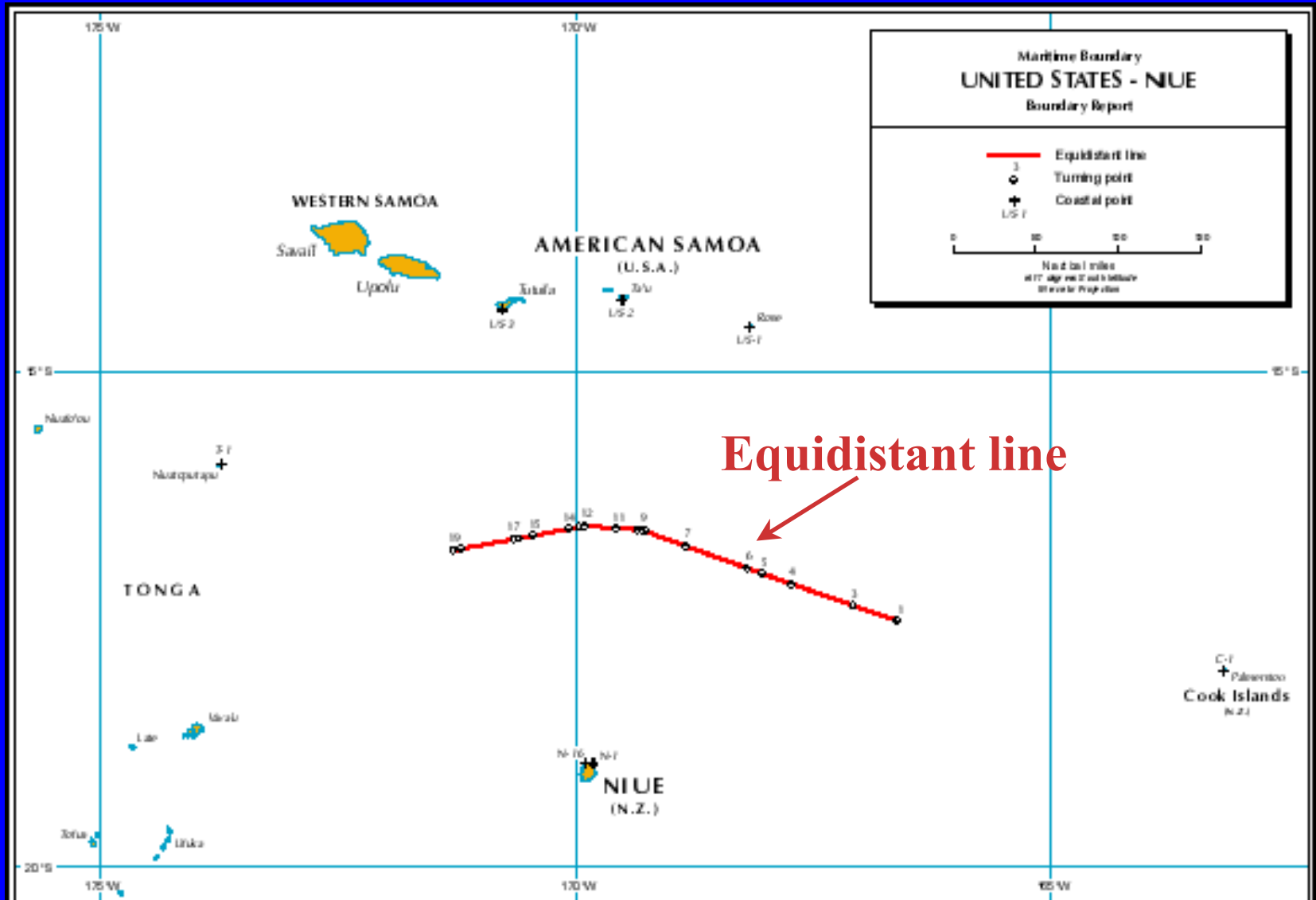
Stumbling Blocks to Maritime Boundary Delimitation

★ Sovereignty Disputes

★ Treaty interpretation

▶ ▶ ★ Perceived geographic imbalance

United States (American Samoa)- Niue

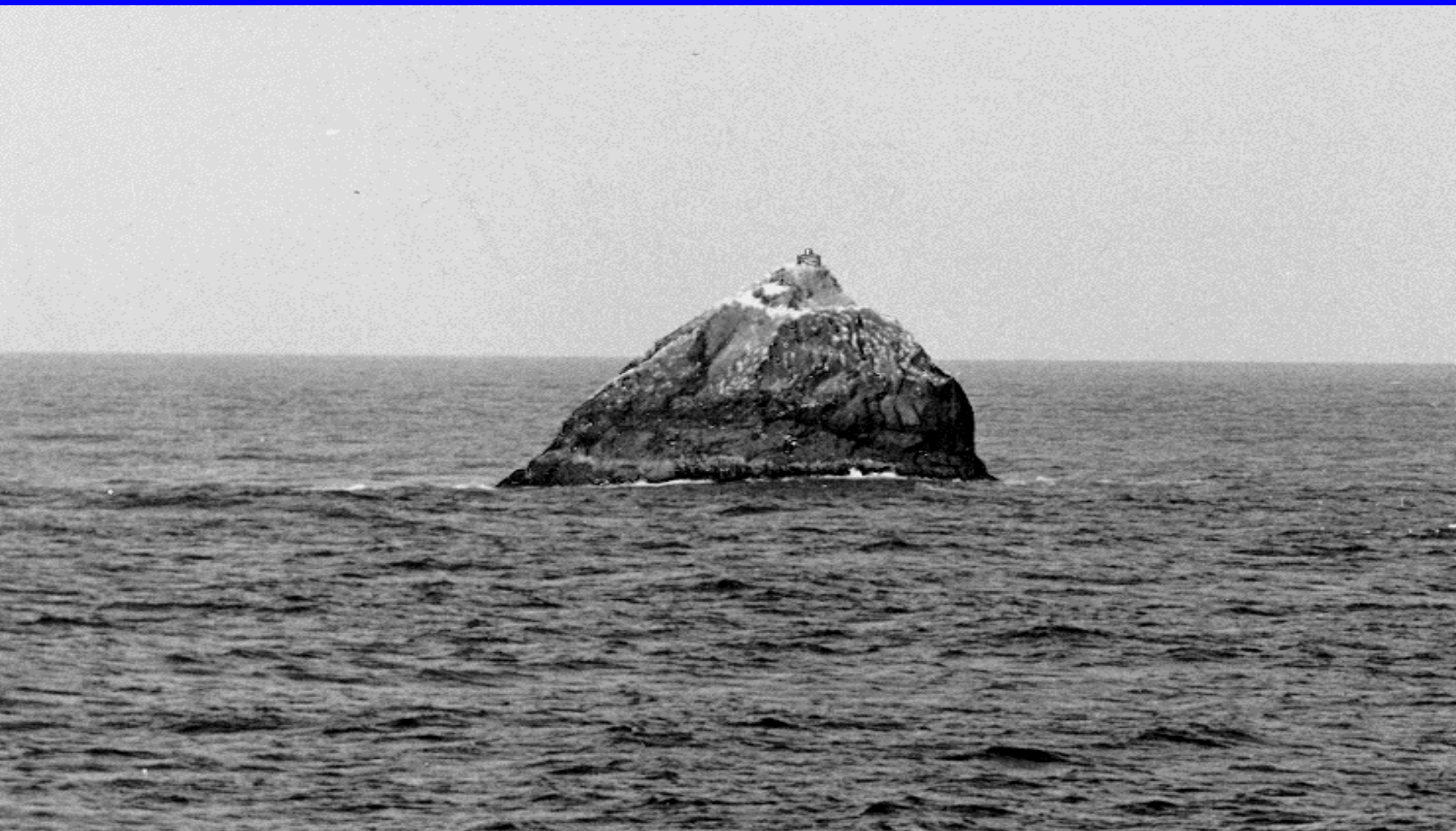


Rockall

Rockall



Rockall



Boundary delimitation process

4 Stages

- **Make boundary claim**
- **Active negotiations**
- **Interim arrangements**
- **Implementation**

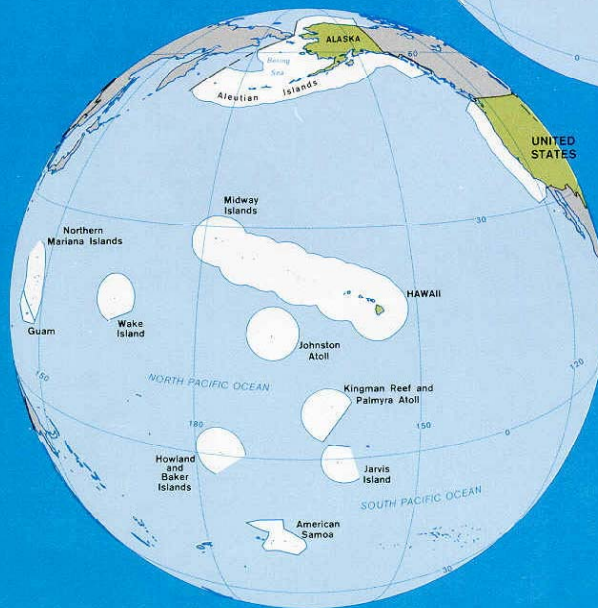
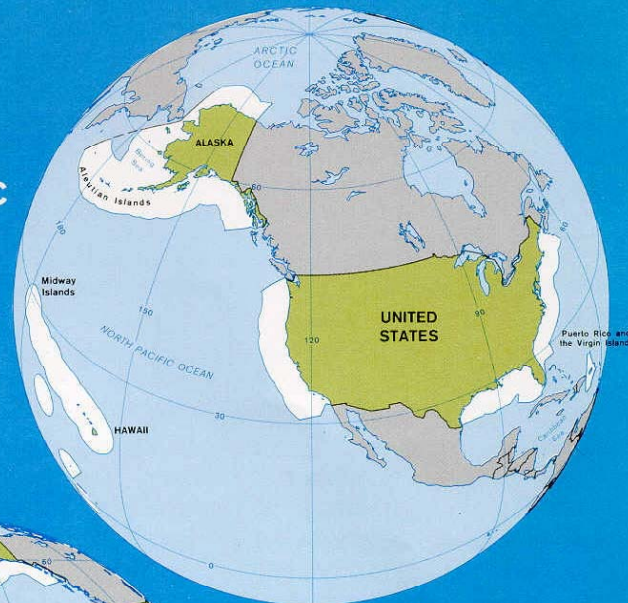
United States

Extended Maritime

Jurisdiction

**THE UNITED STATES'
200 NAUTICAL MILE
EXCLUSIVE ECONOMIC
ZONE**

**As Specified by
Presidential Proclamation,
March 10, 1983**



Perspective Projections
5065 7-83 STATE (GE) (4947)
For Illustrative Purposes Only

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Developing the Negotiating Position(s)

- **Establish overall strategy (National Ocean Policy)**
- **Boundary positions should be consistent**
- **Should consider boundaries within overall foreign policy context**
- **Should reflect identified national interests**

Who identifies national interests ?

Cabinet level

Inter-agency group, headed by high level officials

Experts at working level

Agencies: Foreign Ministry, Defense, Transportation, Fisheries, Oil & Gas, Coast Guard, Customs, Enforcement

Identifying national interests

1. International relations with neighbors

2. Economic/commercial interests

➤ **Fisheries**

➤ **Oil & Gas**

➤ **Hard minerals/other**

➤ **Transportation: surface, pipelines**

➤ **Tourism**

3. Military & strategic

The Negotiating Team

Head of Negotiating Team:

- 1. Picked by President/ PM/ Secretary of State**
- 2. Legal Adviser of Foreign Ministry**
- 3. Head of Country Bureau**
- 4. Minister of one of the Agencies (Fish, Oil and Gas, MFA)**

The Negotiating Team

Members of the Team

- **Lawyers**
- **Technical experts**
- **Substantive experts (fisheries, oil & gas, enforcement)**

Bases for Negotiations

International Law

- **Law of the Sea Convention**
- **State Practice**
- **International Judgments (ICJ-
Arbitrations)**

Bilateral History

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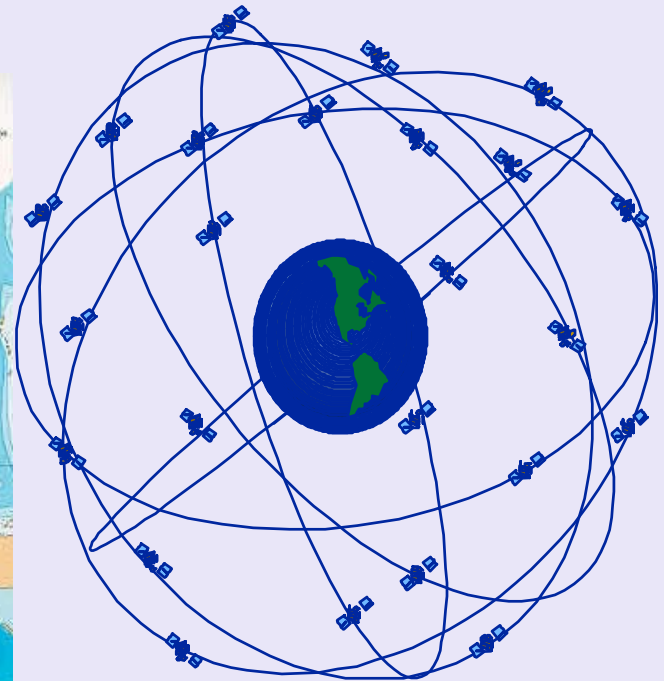
Agreement

Develop Working Relations With Neighbor

- **Put actual negotiations on hold**
- **Work on joint fishery plan**
- **Jointly survey key coastal areas**
- **Conduct oil & gas study**

United States - Mexico “Western Gap” Coastal GPS Survey Project

SUMMER 1998



*Joint Survey Work
Isles Derniere (Raccoon
Island) Louisiana*



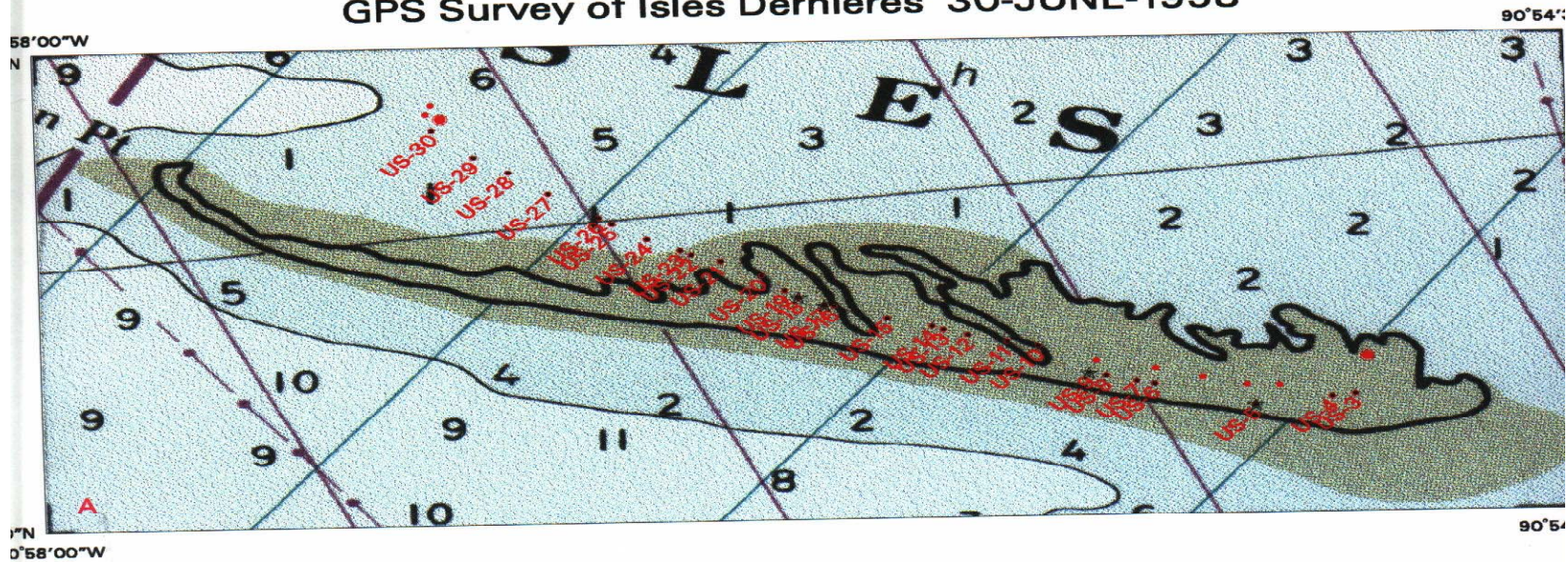
Raccoon Island

Taking positions with the PLGRs



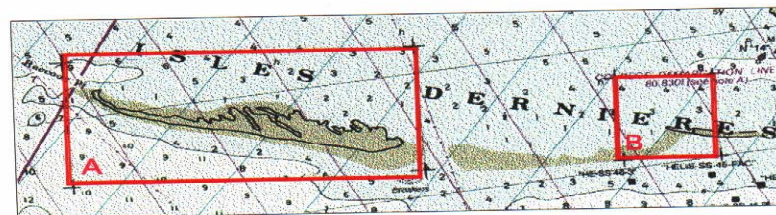
Isle Dernieres (Raccoon Island) Comparing Surveyed Points to Chart

GPS Survey of Isles Dernieres 30-JUNE-1998



Legend

- coast
- DGPS base stations
- ☆ contributing points
- included on baseline list



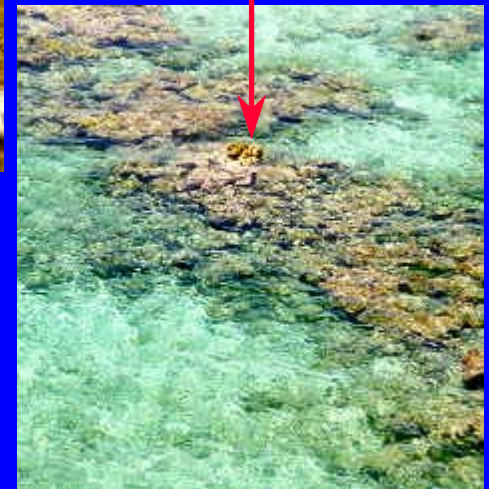
Arrecife Alacran

The search for Mexican basepoints

Submerged features



Rock
(above water)



No boundary solution in sight: What then?

Interim measures

Other solutions:

Joint Zones

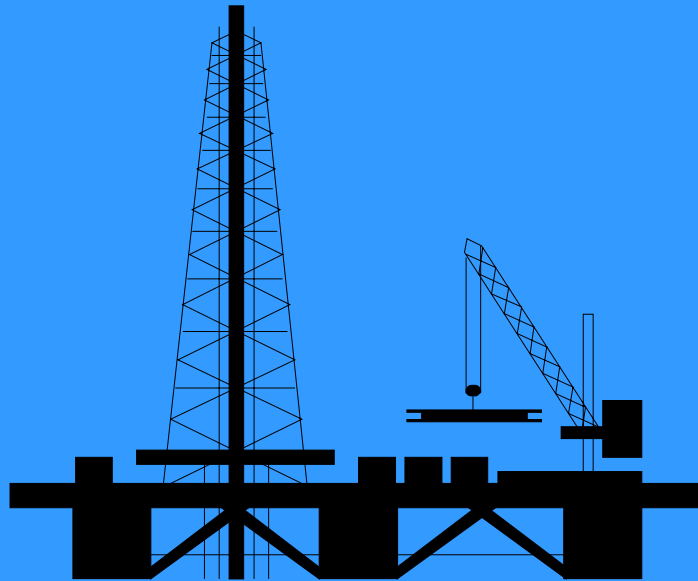
Partial delimitation

Interim (Provisional) Measures

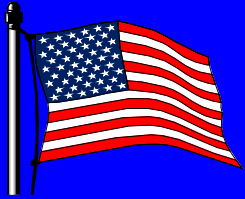
**Law of the Sea Convention-
articles 74 and 83**

“...make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement.”

Beaufort Sea: U.S. Oil Lease Sales Escrow Accounts in Disputed Area



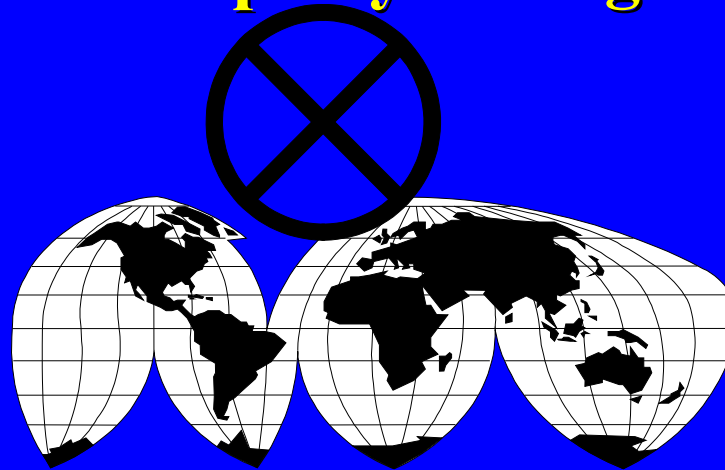
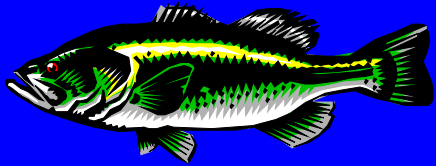
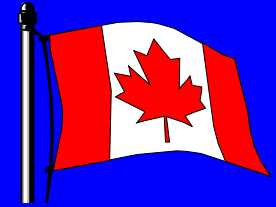
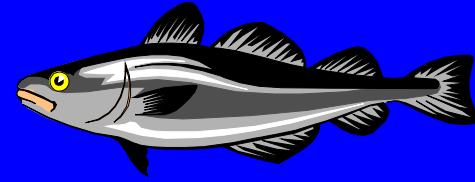
Fisheries Enforcement: Dixon Entrance



Interim Measures

> Enforce against nationals

> No third-party fishing



Other Possibilities

- **Joint zones**
- **Partial delimitation (“gap”)**
- **Limit jurisdiction for islands**
- **Put sovereignty disputes on hold**

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Consultations ??

Questions to ask when developing the National boundary positions:

- ❖ **Does the Constitution require that the treaty be ratified?**
- ❖ **If yes, by whom: a Senate or other ruling body?**
- ❖ **If yes, then politically, it would be wise to keep this body informed of negotiating process, and to seek advice.**
- ❖ **Advice from affected industries should be obtained.**

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Elements of a Good Boundary

May be years later before a valid assessment can be made

Broad assessment:

- **National perspective:** reflects the national interests that have been identified; can be ratified
- **Bilateral perspective:** States remain amicable and on friendly terms as a result of negotiations

Elements of a Good Boundary

Treaty Language

- All users can apply treaty provisions in a consistent and identical manner
- Legal terminology is comprehensive and understandable
- Technical information is sufficient and applicable

The American Society of International Law

International Maritime Boundaries

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