

**UNITED STATES MISSION TO THE UNITED NATIONS
NEW YORK**

December 3, 2004

The Deputy Representative of the United States of America to the United Nations presents her compliments to the Secretary-General of the United Nations and refers to the recent Australian submission to the Commission on the Limits of the Continental Shelf (the Commission). The United States recalls the principles and objectives shared by the Antarctic Treaty and the United Nations Convention on the Law of the Sea (the Convention), and the importance of the Antarctic system and the Convention working in harmony and thereby ensuring the continuing peaceful cooperation, security and stability in the Antarctic area. The United States wishes to inform you that, recalling Article IV of the Antarctic Treaty, the United States does not recognize any State's claim to territory in Antarctica and consequently does not recognize any State's rights over the seabed and subsoil of the submarine areas beyond and adjacent to the continent of Antarctica. The United States acknowledges with appreciation Australia's request to the Commission that it not take any action on that portion of its submission relating to areas of the seabed and subsoil adjacent to Antarctica. The United States requests that this note be posted on the United Nations Division for Ocean Affairs and the Law of the Sea web site and made available to the Commission.

The Deputy Representative of the United States of America to the United Nations avails herself of this opportunity to renew ~~to the Secretary-General the assurances~~ of her highest consideration.

POL 10-04

DIPLOMATIC NOTE

Translated from Russian

**Permanent Mission of the Russian Federation
to the United Nations**

No. 739/n

The Permanent Mission of the Russian Federation to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to inform him that the Russian Federation, with reference to the submission of Australia to the Commission on the Limits of the Continental Shelf (notification No. CLCS.03.2004.LOS of 15 November 2004), wishes to convey the following information.

Based on the provisions of article 4 of the Antarctic Treaty of 1959, the Russian Federation does not recognize any claims in relation to territories located in the area covered by the Treaty, nor does it regard the assertion of such claims by any State as establishing rights with respect to the seabed (continental shelf) and its mineral resources in areas appurtenant to Antarctica.

In this connection, the Russian Federation takes note of and supports the request by Australia that the Commission should not take any action with regard to the part of its submission that relates to the seabed (continental shelf) appurtenant to Antarctica in the area covered by the Antarctic Treaty of 1959.

The Russian Federation requests that this note should be posted on the web site of the Division for Ocean Affairs and the Law of the Sea of the Secretariat of the United Nations and brought to the attention of the Commission on the Limits of the Continental Shelf.

The Permanent Mission of the Russian Federation to the United Nations takes this opportunity to convey to the Secretary-General of the United Nations the renewed assurances of its highest consideration.

New York, 9 December 2004

The Secretary-General of the United Nations
New York

PERMANENT MISSION OF JAPAN
TO THE UNITED NATIONS
NEW YORK

SC/05/039

The Permanent Representative of Japan to the United Nations presents his compliments to the Secretary-General of the United Nations and, with reference to the circular CLCS.03.2004.LOS (Continental Shelf Notification) dated 15 November 2004, concerning the receipt of the submission made by Australia to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission"), has the honour to express the position of the Government of Japan with regard to the submission made by Australia relating to the seabed and subsoil of the submarine areas adjacent to the continent of Australia, and requests that this note verbale be circulated to the members of the Commission and Member States of the United Nations, be posted on the web site of the Divisions for Ocean Affairs and the Law of the Sea (DOALOS) of the Secretariat of the United Nations, and be made available to the Member States and the Commission.

Japan confirms the importance of keeping harmony between the Antarctic Treaty and the United Nations Convention on the Law of the Sea and thereby ensuring the continuing peaceful cooperation, security and stability in the Antarctic area.

Recalling Article IV of the Antarctic Treaty, Japan does not recognize any State's right of or claims to territorial sovereignty in the Antarctic, and consequently does not recognize any State's rights over or claims to the water, seabed and subsoil of the submarine areas adjacent to the continent of Antarctica.

From this standpoint, Japan stresses that the balance of rights and obligations in the Antarctic Treaty should not be affected in any way in handling the information on the limits of the continental shelf, submitted by Australia to the Commission.

Japan requests the Commission not to take any action on the portion of Australia's submission relating to the seabed and subsoil of the submarine areas adjacent to the continent of Antarctica.

The Permanent Representative of Japan to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurances of his highest consideration.

19 January 2005





Permanent Mission of the
Democratic Republic of Timor-Leste to the United Nations
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NV/UN/71/2005

New York, 11 February 2005

The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to his communication dated 15 November 2004 (Continental Shelf Notification CLCS.03.2004.LOS), concerning the receipt of the submission made by Australia to the Commission on the Limits of the Continental Shelf (CLCS).

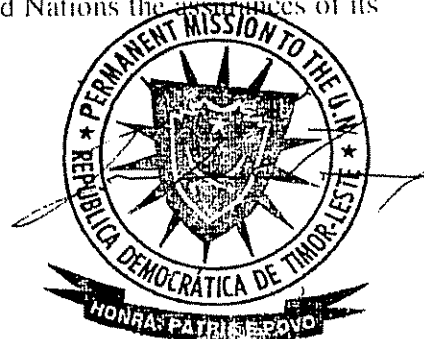
The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations has the further honour to submit the position and the observations of the Government of Timor-Leste with respect to the aforementioned submission.

The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations wishes to note that the Australian submission to the CLCS on the limits of its continental shelf beyond 200 nautical miles, and any recommendations issued by the CLCS in response to the said submission, are, as set down in the relevant provisions of the United Nations Convention on the Law of the Sea (1982) and the relevant documents issued thereunder, without prejudice to the question of delimitation of any maritime boundaries between Timor-Leste and Australia. Timor-Leste requests that this point be made clear by the CLCS in the course of its examination of the Australian submission.

The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations requests that this present note verbale and the Position Paper attached thereto be circulated and publicised, and informs that the Government of Timor-Leste has communicated its position and observations to the Government of Australia.

The Permanent Mission of Timor-Leste to the United Nations avails itself of the opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Secretary-General of the United Nations
New York



TIMOR-LESTE POSITION PAPER

**ON THE AUSTRALIAN SUBMISSION TO THE CLCS,
CONCERNING THE EXTENSION OF ITS CONTINENTAL SHELF BEYOND 200 NAUTICAL MILES**

Having reviewed the documents concerning the Australian submission made available in the website of the United Nations (i.e. the executive summary, the annexes thereto and the 21 maps), Timor-Leste wishes to express its position on, and make certain observations to, the submission made by Australia to the Commission on the Limits of the Continental Shelf (CLCS) pertaining the extension of its continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, lodged pursuant to Article 76, paragraph 8, of the United Nations Convention on the Law of the Sea – 1982 (UNCLOS).

1. The Australian submission to the CLCS is, as set down in the relevant provisions of UNCLOS and the relevant documents issued thereunder, without prejudice to the question of delimitation of any maritime boundaries between Timor-Leste and Australia.
2. The question of the delimitation between Timor-Leste and Australia is not directly referred to in the text of the submission. Notwithstanding this, there are a number of points the impact of which gives rise to concern as far as the maritime jurisdiction and rights of Timor-Leste are concerned, should the question not be dealt with, and to which Timor-Leste would like to draw the attention of the CLCS.
3. The first point concerns Map 1 of the Australian submission, a zoomed-in extract of which in the Timor Sea region is presented as attachment to this Annex. With this map, Australia has presented its perspective of the situation of the Timor Sea as far as the attribution of maritime jurisdiction and rights is concerned. This perspective is not shared by Timor-Leste.
4. Map 1 “describes” the situation of the Timor Sea as one which has been resolved and settled by the Timor Sea Treaty between Timor-Leste and Australia, and by delimitation treaties between Australia and Indonesia. This is not, in Timor-Leste’s view, for various reasons, a correct characterisation of the situation in the Timor Sea region. No boundaries are delimited in the Timor Sea region between Australia and Timor-Leste, and some areas portrayed by Australia as belonging thereto are in fact areas disputed between Australia and Timor-Leste.
5. The limit-lines of the Joint Petroleum Development Area (JPDA) established by the Timor Sea Treaty between Timor-Leste and Australia do not in any way bound, or represent the limits of, Timor-Leste’s maritime jurisdiction and rights. In effect, Timor-Leste’s boundary claims vis-à-vis Australia extend beyond such lines, specifically in respect of the “lateral lines” of the JPDA (which run approximately along the true bearing 167°-347° on the eastern side, and true bearing 149°-329° on the western side). The idea, apparently depicted in Map 1 (with regard to the Timor Sea region), that all areas outside the JPDA and south of the 1972 Australia/Indonesia Seabed Boundary Treaty are areas under Australian jurisdiction is a misrepresentation of the situation as far as attribution of maritime jurisdiction and rights is concerned.
6. The existence of a misrepresentation of the legal situation in the Timor Sea region, in respect of the attribution of maritime jurisdiction and rights, is reinforced by statements made in the Executive Summary of the Australian submission. At page 41, it is stated: “There are two maritime boundary treaties between Australia and Indonesia within the Argo region – the 1997 Treaty [...] that

establishes a seabed boundary and an EEZ boundary in the central part of that region and a 1972 treaty that establishes a seabed boundary in the eastern part of the region. The seabed boundaries and the EEZ boundary defined by the treaties diverge in a number of areas. In the area between the divergent boundaries, Australia exercises seabed and subsoil jurisdiction and Indonesia exercised jurisdiction over the water column.” This is a clear assertion of jurisdiction by Australia in relation to areas that include maritime areas which are in fact disputed between Timor-Leste and Australia.

7. In conclusion, Map 1 in the Australian submission, concatenated with statements made in the Executive Summary, does indeed express an idea that may prejudice Timor-Leste’s rights, should it be, by action or omission, directly or indirectly, endorsed or in any way upheld by the CLCS in the course of its examination of the Australian submission.

8. The second point to be made concerns Australia’s reliance, throughout the submission, on the 1997 Boundary Treaty between Australia and Indonesia. As it ties in with the previous point, to the extent that the boundary lines depicted thereon are those described in this treaty, the observations made above are equally valid here.

9. There is, in addition, another issue to be raised. This 1997 Treaty (yet to enter into force) extends through areas over which Timor-Leste has not only an entitlement, but also a maritime boundary claim. As a bilateral treaty between Australia and Indonesia, it is a matter with which Timor-Leste does not wish to interfere. To the extent, however, that it purports to delimit maritime boundaries in areas which belong to the territory of Timor-Leste, or to restrict the maritime areas which may be claimed by Timor-Leste as being under its jurisdiction, this 1997 Treaty should be deemed to be of no effect. Unqualified reliance by the CLCS on references made to the 1997 Treaty may prejudice Timor-Leste’s legal position.

10. In particular, and most importantly, unqualified reliance on the submission’s references to the 1997 Treaty (or the 1972 Australia/Indonesia Seabed Boundary Treaty) must in no way result in a limitation on the maritime boundary claims of Timor-Leste under international law. The so-called “Timor Gap” does not constitute a legal limitation to Timor-Leste’s claims, as it is *res inter alios acta*. Further, the areas outside the JPDA, immediately adjacent thereto (to east and west thereof), are not as a matter of law, unlike suggested by Map 1, areas under Australian jurisdiction.

11. A third point to be raised concerns Australia’s continental shelf entitlement in the Timor Sea region. The seabed boundary claim advanced by Australia in this region is based on a natural prolongation argument, an argument underlying which is a claim to a continental shelf entitlement beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. In other words, the boundary-line claimed by Australia vis-à-vis Timor-Leste lies to a large extent in an area that is beyond the 200-mile limit computed from the Australian baseline.

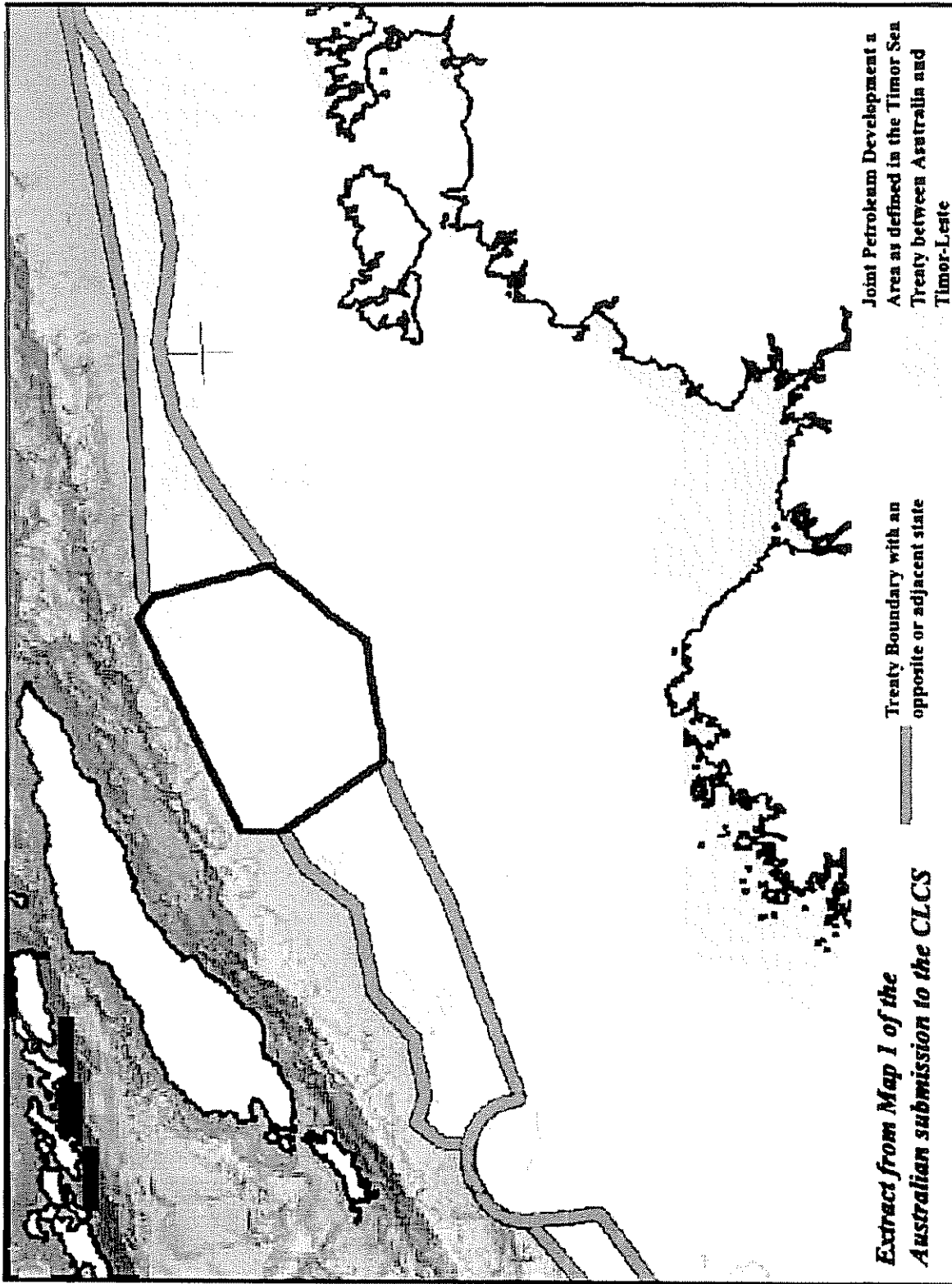
12. In the Australian submission, it is not clear why Australia has chosen not to refer to its claimed entitlement beyond 200 nautical miles in the Timor Sea. It is equally unclear why Australia has not referred to the dispute that involves the delimitation of its maritime boundary with Timor-Leste, in relation to which the Australian claim relies on an argument of natural prolongation beyond 200 nautical miles. Irrespective of the explanation, it is Timor-Leste’s view that the CLCS should make clear in its recommendations that there is no question of endorsement of the Australian continental shelf entitlement beyond 200 nautical miles in the Timor Sea region.

13. The views expressed and observations made previously do not prejudice Timor-Leste’s right to further elaborate thereon, in particular if other information on the Australian submission is made available. And Timor-Leste reserves the right to take in the future any appropriate measures in that respect.

14. In light of the aforementioned observations, Timor-Leste respectfully requests that the CLCS:

- a) Ensure that Timor-Leste's rights are not prejudice by the procedures involving the Australian submission;
- b) Expressly deny any endorsement of the idea that Australia has an entitlement beyond 200 nautical miles in the Timor Sea;
- c) Expressly affirm that, as far as the Timor Sea is concerned, any reliance on Map 1 by the CLCS will have no legal effect with respect to the delimitation of maritime boundaries between Timor-Leste and Australia, and that no inferences may be derived therefrom in this regard;
- d) While limiting the recommendations to those areas beyond 200 nautical miles which are the subject of the Australian submission, assert expressly that any other Australian claims beyond 200 nautical miles that may be implicit in the submission and the annexed Maps are neither sanctioned nor endorsed by the CLCS;
- e) Expressly assert that there is no unqualified endorsement of the 1997 Treaty, and that, in relation to those areas which are not the immediate object of the recommendations of the CLCS, the CLCS' reliance on the 1997 Treaty does not have an impact or implication on disputes concerning the Timor Sea; and
- f) Make clear that the contents of Map 1, whatever use is given thereto, or reliance is placed thereon, have no impact on the maritime boundary claims of Timor-Leste and Australia in the Timor Sea, and that Timor-Leste's boundary claims are in no way be limited, directly or indirectly, by the Australian submission or the recommendations issued by the CLCS in respect thereof.

ATTACHMENT



Translated from French

Permanent Mission of France to the United Nations

BC/aa

No. 163

The Permanent Mission of France to the United Nations presents its compliments to the Secretariat of the United Nations (Office of Legal Affairs) and has the honour to refer to its communication No. CLCS/03/2004 LOS of 15 November 2004 concerning the submission made by Australia to the Commission on the Limits of the Continental Shelf, in which that country mentions France's position with regard to the outer limits proposed by Australia for the Kerguelen Plateau and New Caledonia regions.

France has taken note of the potential overlap between the areas of extended continental shelf of the two States in the aforementioned two regions. France has also noted that Australia emphasizes in its submission that its claim for an extended continental shelf is without prejudice to any subsequent delimitation between the two States (see, inter alia, pages 17-18 and 35 of the "Executive Summary of the Continental Shelf Submission of Australia")

The Permanent Mission confirms that France has no objection to the Commission considering and making recommendations on those parts of Australia's submission that concern areas bordering on French territories to the extent that such recommendations, in accordance with article 76, paragraph 10, of the United Nations Convention on the Law of the Sea, are without prejudice to any final delimitation of the continental shelf concluded subsequently in these areas between France and Australia.

The Permanent Mission of France to the United Nations thanks the Secretariat of the United Nations (Office of Legal Affairs) in advance for acknowledging receipt of this note verbale and takes this opportunity to convey to it the renewed assurances of its highest consideration.

New York, 28 March 2005

United Nations Secretariat
Office of Legal Affairs
Division for Ocean Affairs and the Law of the Sea
Room DC2-0450



No. NYV/2005/690

The Permanent Mission of the Netherlands to the United Nations presents its compliments to the United Nations Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, and has the honor to refer to the Submission to the Commission on the Limits of the Continental Shelf on the Outer Limits of Australia's Continental Shelf Extending Beyond 200 Nautical Miles from the Territorial Sea Baseline and the accompanying note of the Permanent Mission of Australia to the Secretary-General of the United Nations, dated 15 November 2004.

Taking note that the submission of Australia includes information relating to continental shelf adjacent to Antarctica, the Netherlands wishes to reiterate its long-standing position that the Netherlands does not recognize any claim to territories in Antarctica and does not recognize that a claim to territorial sovereignty in Antarctica is capable of creating any sort of rights over continental shelf adjacent to Antarctica. It is well-established that the principle of sovereign rights over continental shelf adjacent to the coast, for the purposes of exploring and exploiting the natural resources of the shelf, derives from sovereignty of the coastal State over adjacent land territory. Accordingly, the Netherlands does not consider that the continental shelf adjacent to Antarctica is subject to the sovereign rights of any State.

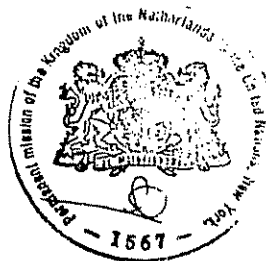
The Netherlands notes that there is an unresolved land dispute in relation to Australia's claim to territory in Antarctica. It understands the reference to Article IV of the 1959 Antarctic Treaty in Australia's note to be information to the Commission on the Limits of the Continental Shelf of said dispute in accordance with paragraph 2 of Annex I of the Rules of Procedure of the Commission on the Limits of the Continental Shelf. Therefore, the Netherlands requests the Commission to act pursuant to paragraph 5(a) of Annex I of the Rules of Procedure of the Commission on the Limits of the Continental Shelf insofar the submission of Australia includes information relating to continental shelf adjacent to Antarctica. In this respect, the Netherlands acknowledges with appreciation Australia's request to the Commission on the Limits of the Continental Shelf that it not take any action on that portion of its submission relating to continental shelf adjacent to Antarctica.

The Netherlands requests that this *note verbale* be circulated to the members of the Commission on the Limits of the Continental Shelf and Member States of the United Nations, and be posted on the web site of the United Nations Division for Ocean Affairs and the Law of the Sea.

The Permanent Mission of the Netherlands to the United Nations avails itself of this opportunity to renew to the Division for Ocean Affairs and the Law of the Sea the assurances of its highest considerations.

New York, 31 March 2005

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Office of Legal Affairs
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New York, N.Y. 10017





**Ständige Vertretung Deutschlands
bei den Vereinten Nationen**
Permanent Mission of Germany
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Mission permanente d'Allemagne
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Pol 508 03

Note No 88 / 2005

The Permanent Mission of Germany to the United Nations presents its compliments to the Secretariat of the United Nations and, with reference to the circular CLCS .03.2004 LOS (Continental Shelf Notification) dated 15 November 2004, concerning the receipt of the submission made by Australia to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the commission"), has the honour to express the position of the Government of the Federal Republic of Germany with regard to the a. m. submission made by Australia:

Germany confirms the importance of keeping harmony between the Antarctic Treaty and the United Nations Convention on the Law of the Sea and thereby insuring the continuing peaceful cooperation, security and stability in the Antarctic area.

Recalling Article IV of the Antarctic Treaty, Germany does not recognize any State's claim to territory in Antarctica and does not recognize that a State's claim to territorial sovereignty in Antarctica is capable of creating any rights over the seabed and subsoil of the submarine areas beyond and adjacent to the Continent of Antarctica.

To the
Secretariat of
the United Nations
Office of Legal Affairs
Division for Ocean Affairs
and the Law of the Sea
New York

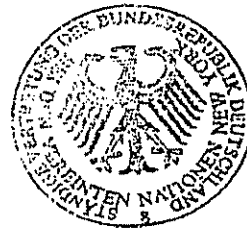
From this standpoint, Germany stresses that balance of rights and obligations in the Antarctic Treaty should not be affected in any way in handling the information on the Limits of the Continental Shelf submitted by Australia to the Commission and request the Commission not to take any action on the portion of Australia's submission relating to the seabed and subsoil of the submarine areas adjacent to the Continent of Antarctica

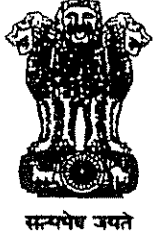
In this respect, Germany acknowledges with appreciation Australia's request to the Commission that it not take any action on that portion of it's submission relating to continental shelf adjacent to Antarctica.

Germany requests that this note verbale be circulated to the members of the Commission and Member States of the United Nations, and be posted on the website of the United Nations Division for Ocean Affairs and the Law of the Sea.

The Permanent Mission of Germany to the United Nations avails itself of this opportunity to renew to the Secretariat the assurances of its highest consideration.

New York, 05 April 2005





संयुक्त राष्ट्र स्थित भारत का स्थायी मिशन
न्यूयॉर्क

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NY/PM/443/1/98

July 5, 2005

The Permanent Mission of India to the United Nations presents its compliments to the Secretary-General of the United Nations and with reference to the circular note CLCS.03.2004.LOS (Continental Shelf Notification) of 15 November 2004 concerning the Australian submission to the Commission on the Limits of Continental Shelf ("the Commission"), has the honour to express the position of the Government of India with regard to the submission made by the Government Australia relating to the seabed and subsoil of the submarine areas adjacent to the continent of Antarctica.

India recalls the principles and objectives shared by the Antarctic Treaty and the United Nations Convention on the Law of the Sea (the Convention), and confirms the importance of harmony between the Antarctic Treaty and the Convention and of the continuing cooperation, security and stability in the Antarctic area.

India, while referring to Article IV of the Antarctic Treaty, wishes to inform that it does not recognise any state's right or claims to territorial sovereignty in the Antarctic area, and consequently does not recognise any state's right over or claims to the water, seabed and subsoil of the submarine areas adjacent to the continent of Antarctica.

Acknowledging with appreciation Australia's request to the Commission for not taking any action on the portion of its submission relating to areas of the seabed and subsoil adjacent to Antarctica, India requests the Commission not to take any action accordingly.

India requests that this *note verbale* be made available to the Member States and the Commission.

The Permanent Mission of India to the United Nations avails of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

The Secretary-General
United Nations
New York.

