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Mr. Yong Ahn Park
Chairperson
Commission on the Limits of the Continental Shelf

Dear Mr Park,

**JOINT SUBMISSION BY THE FRENCH REPUBLIC AND THE REPUBLIC OF
SOUTH AFRICA: GENERAL PRINCIPLES OF NATURAL PROLONGATION**

I refer to the partial Joint Submission made by the French Republic and the Republic of South Africa, in respect of the area of Crozet Archipelago and the Prince Edward Islands, to the Commission on the Limits of the Continental Shelf on 6 May 2009, pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea, and which has been under consideration by the Subcommission established to examine this Submission since 13 March 2014.

Over the course of this examination, and through multiple exchanges of data and information, it has become clear that significant differences in interpretation of the data provided, the geological context and the application of Article 76 of the Convention in this complex region exist between the joint delegation and the Subcommission.

Over the last few sessions of the Commission no substantial progress in bridging those differences was achieved during the consultations between the national experts of the joint delegation and the Subcommission. The Subcommission, as agreed, presented its views and general conclusions arising from the examination of the Joint Submission, in accordance with paragraph 10.3 of Annex III to the Rules of Procedure by transmission in document 2017_10_27_SCFRAZAF_DOC_FRAZAF_006 on December 1st, 2017.

This document has been of great assistance to the joint delegation in understanding the views of the Subcommission which up to now had remained unclear. The conclusions reached by the Subcommission highlight an area of serious concern with regards to the ongoing consideration of natural prolongation of the land territory to the outer edge of the continental margin and the need for clarity regarding

the principles to be applied in this consideration. Guidance from the Commission in this regard is of great importance not only for the two coastal States, but for submitting States in general.

As you know, several members of the joint delegation have a longstanding history of exchanges with the Commission in the context of this and other submissions. From that experience, it is clear that the notion of natural prolongation as described in the Convention and applied until recently by the Commission, does not require geological considerations, even though geological and geophysical data may add additional proof. Many earlier recommendations are very clear on this point.

It is the view of the joint delegation, consistent with the judgement of the International Tribunal on the Law of the Sea in *Bangladesh vs. Myanmar*, (ITLOS Case No. 16, Judgement of 14 March 2012, §437), that natural prolongation to a continental shelf beyond 200 nautical miles 'should be determined by reference to the outer edge of the continental margin, to be ascertained in accordance with Article 76, paragraph 4. To interpret otherwise is warranted neither by the text of article 76 nor by its object and purpose'. It is, therefore, very concerning that the Subcommission departs from this notion by excluding, *ab initio*, from the continental margin, a part of the South West Indian Ridge, even though it is morphologically connected to the landmass of the joint submitting States. Furthermore, in so doing, the Subcommission uses geological arguments and the existence of a plate boundary, to contest natural prolongation based on morphology, which in our view is inconsistent with the Convention, the Guidelines and past practice of the Commission as well as with the aforementioned ITLOS judgement.

Through statements in published summaries of recommendations made to coastal States – notably Iceland, Cook Islands and South Africa among others – and Statements of the Chair of the Commission, the joint delegation is aware of significant differences of views within the Commission concerning issues of natural prolongation, particularly as it relates to ocean islands, but not only in these cases. It is for this reason that we write to the Commission to seek guidance on the way forward.

The two coastal States believe that the fundamental considerations of the application of natural prolongation under Article 76 and entitlement of ocean islands to a continental shelf beyond 200 nautical miles are of utmost importance, not only for the Joint Submission, but also to the submissions of many coastal States yet to be examined by the Commission. Clarity, and consistency of application, are essential components of international law and submitting States thus expect clarity in the interpretation and application of Article 76 of the Convention and until recently, this was mostly the case.

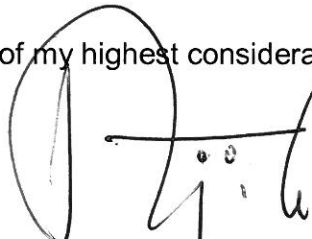
The joint delegation recognises the important role that the Commission plays in making recommendations that form the basis for the establishment of final and binding outer limits of the continental shelf by coastal States and is prepared to engage with the Commission in any manner appropriate.

The joint delegation will continue the consultations with the Subcommission, and will provide, during the 47th session of the Commission, an initial comprehensive reply to the views and general conclusions reached. However, the joint delegation is convinced that guidance from the Commission would be needed before the process of examination can be concluded on the basis of a mutual understanding of the principles to be applied.

The joint delegation defers to the Commission on the manner in which clarity should be provided, but would welcome a document on the general principles of natural prolongation that would be of benefit to all coastal States.

The joint delegation notes that in the Statement of the Chair CLCS/81, the Commission recalls the general interest of States Members of the United Nations, as well as States Parties to the Convention, in the transparency in the work of the Commission. Consequently, the joint delegation requests that this letter be circulated to all State parties through the Division of Ocean Affairs and the Law of the Sea and placed on its website.

Please accept the assurances of my highest consideration

A handwritten signature in black ink, appearing to read 'J. Matjila', with a large, stylized flourish above the first letter.

Jerry M Matjila
Ambassador and Permanent Representative
of the Republic of South Africa