



PERMANENT MISSION
OF THE KINGDOM OF TONGA
TO THE UNITED NATIONS

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The Permanent Mission of the Kingdom of Tonga to the United Nations presents its compliments to the Secretary-General of the United Nations and it has the honour to refer to the Submission made by the Government of New Zealand to the Commission on the Limits of the Continental Shelf (CLCS) pursuant to article 76, paragraph 8, of and Annex II to the United Nations Convention on the Law of the Sea (the Convention), presented under the cover of Note No. NZ-CLCS-TPN-01 of 19 April 2006.

The Government of the Kingdom of Tonga discovered from the outset that the Executive Summary presented as part of the Submission made by the Government of New Zealand to the CLCS includes portions of maritime species under the national jurisdiction of the Kingdom of Tonga. The designated Northern Region in the Submission specifically overlaps southern portions of the exclusive economic zone and the continental shelf within and beyond 200 nautical miles of the Kingdom of Tonga.

The Government of the Kingdom of Tonga feels compelled to clarify its position on this Submission:

- In accordance with article 74, paragraph 3, and article 83, paragraph 3, pending agreement, the States concerned, shall 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. Such arrangements shall be without prejudice to the final delimitation.
- In accordance with article 76, paragraph 10, the provisions designed to establish the outer limit of the continental shelf are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

As a result of the discovery of their overlapping maritime spaces, the Government of the Kingdom of Tonga and New Zealand have held consultations in a spirit of understanding and cooperation pending agreement as provided for in article 74, paragraph 1, and article 83, paragraph 1, of the Convention. Our Governments have made various efforts in the past to enter into provisional arrangements of a practical nature, including the consideration of a Joint Submission to the CLCS in certain areas. While the complexities of the issues involved and the advanced stage of the consideration of the Submission of New Zealand by the CLCS have made it impossible to agree to prepare a Joint

Submission, the Government of the Kingdom of Tonga does not wish to jeopardize or to hamper in any way the consideration by the CLCS of the Submission made by New Zealand in the Northern Region.

The Kingdom of Tonga takes this action also fully aware of the fact that the position of the Government of New Zealand is consistent with its interpretation of article 76, paragraph 10, in the sense that notwithstanding the outcome of the Recommendation made by the CLCS and the outer limit determined by the Government of New Zealand based on those Recommendations, the delimitation of the exclusive economic zone and the continental shelf shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

The Government of the Kingdom of Tonga takes note of the consistent position taken by the Government of New Zealand on the interpretation of article 76, paragraph 10, as evidenced in direct consultations and its Note No. NZ-CLCS-TPN-03 dated 10 July 2006.

The Government of the Kingdom of Tonga requests that this note verbale be made available to Member States of the United Nations and the CLCS, and it also requests that it be posted on the website of the Division of Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations.

The Permanent Mission of the Kingdom of Tonga to the United Nations avails itself of this 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



8 April 2008