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Note Verbale

The Permanent Mission of the Republic of Vanuatu to the United Nations presents its compliments to the Secretary-General of the United Nations in his capacity as the depositary for the United Nations Convention on Law of the Sea (“UNCLOS”), and draws his attention to the following observations of the Government of Vanuatu arising from the partial submission presented by the Republic of the Fiji Islands to the Commission on the Limits of the Continental Shelf (the “Commission”) on 20 April 2009.

Based on its initial review of the Executive Summary of Fiji’s partial submission, the Government of Vanuatu observes that the partial submission fails to comply on both substantive and procedural grounds with UNCLOS and with the Rules of Procedure of the Commission (the “Rules”). In particular, the partial submission asserts Fiji’s claims to an area as to which Vanuatu has also asserted claims. Entitlement to the area is thus subject to a dispute between Fiji and Vanuatu.

Specifically, the partial submission asserts Fiji’s claims to an area that Fiji calls the “South East Region of the North Fiji Basin, Lau-Colville, Tonga-Kermadec Complex.” Vanuatu has also asserted claims to the areas claimed by Fiji, by virtue of Vanuatu’s sovereignty over Matthew (Leka) and Hunter (Umaenupne) Islands, the eastward and southward extensions of which overlap substantially with the areas claimed in Fiji’s partial submission. There is no delimitation agreement between Fiji and Vanuatu. The area that is the subject of Fiji’s partial submission is in dispute between the two States.

In accordance with UNCLOS, including Article 76 and Annex II thereto, and the Rules of Procedure of the Commission, and in particular Annex I thereto, the actions of the Commission may not prejudice matters relating to the delimitation of boundaries between States with adjacent or opposite coasts. Yet, as indicated, Fiji's submission invites the Commission to do just that. In fact, the areas claimed by Fiji in its partial submission to the Commission as part of its putative continental shelf are the natural prolongation of Vanuatu and hence Fiji's claim is disputed by Vanuatu.

The Government of Vanuatu notes that Matthew (Leka) and Hunter (Umaenupne) Islands are also claimed by the French Republic. In its submission to the Commission dated 22 May 2007, the French Republic initially claimed a continental shelf extending from Matthew (Leka) and Hunter (Umaenupne) Islands. By its note to the Commission dated 11 July 2007, Vanuatu protested France's claims in this regard, on the ground that Matthew and Hunter Islands are part of Vanuatu, and hence France's claim to them, and to any continental shelf attributable to them, is disputed. In response, France notified the Commission on 18 July 2007 that it should refrain from consideration of France's claims to the area that is also claimed by Vanuatu.

Recalling paragraph 5(a) of Annex I of the Rules, the Government of Vanuatu observes that, given the presence of a dispute between Vanuatu and Fiji concerning entitlement to the parts of the continental shelf claimed by Fiji in its partial submission, the Commission may not "consider and qualify" the partial submission made by Fiji without the "prior consent given by all States that are parties to such a dispute."

In these circumstances, and in accordance with articles 76 and 83(3) of the Convention and Annex I to the Commission's Rules of Procedures, Vanuatu will make every effort to reach a

practical arrangement with Fiji that will allow the Commission, in accordance with paragraph 5(a) of Annex I to its Rules of Procedure, to consider both the partial submission of Fiji as well as any submission to be made by Vanuatu.

The Government of Vanuatu notes that in Part A of its partial submission to the Commission, Fiji makes reference to preliminary information it communicated in collaboration with Vanuatu to the Commission on 20 April 2009 regarding the continental shelf in the North Fiji Basin Region, as depicted in Figure 1 of the partial submission. Vanuatu and Fiji are in agreement as regards the continental shelf in the North Fiji Basin Region, as set forth in the preliminary information previously communicated to the Commission. This Note Verbale is without prejudice to that agreement or the preliminary information that was provided concerning the North Fiji Basin Region.

The Government of Vanuatu reserves its right to submit further comments in relation to the partial submission of Fiji as and when a more qualified assessment can be conducted, including an assessment of relevant scientific data.

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


Donald Kalpokas
Vanuatu Ambassador to the United Nations



Secretariat of the United Nations
New York