

THE DEPUTY REPRESENTATIVE OF THE UNITED STATES
OF AMERICA TO THE UNITED NATIONS

October 25, 2004

Dear Mr. Michel:

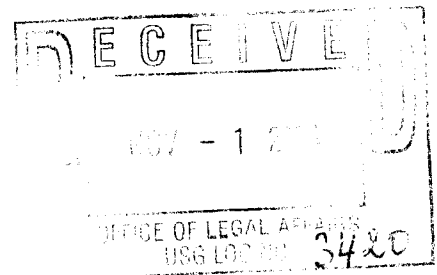
The United States has reviewed the recent Statement by the Chairman of the Commission on the Limits of the Continental Shelf (Commission) on the progress of the work in the Commission (CLCS/42). The United States was disappointed to learn that the Commission has instructed the Sub Commission examining the Brazilian submission to disregard the comments contained in the United States' letter dated August 25, 2004. The United States requests that the Commission reconsider this decision.

In paragraph 17 of the Statement, the Chairman states that:

"Annex II to the Convention and the Rules of Procedure to the CLCS provide for only one role to be played by other States with regard to the consideration of the data and other material submitted by coastal States concerning the outer limits of the continental shelf beyond 200 nautical miles. Only in the case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes would the Commission be required to consider communications from States other than the submitting one. Consequently, the Commission concluded that that the content of the letter from the United States should not be taken into consideration by the Commission. The Commission also instructed the Sub Commission to disregard the comments contained in that letter during the examination of the Brazilian submission."

The United States respectfully disagrees with the Commission's reading of the Rules of Procedure. Annex III, section II.2 (a)(v) of the Rules provides that the coastal State representatives are to make a presentation on "comments on any note verbale from other States regarding the data reflected in the executive summary including all charts and coordinates made public by the Secretary-General in accordance with rule 50."

His Excellency
Mr. Nicolas Michel,
Under-Secretary-General,
The Legal Counsel,
Office of Legal Affairs,
Room S-3427A,
United Nations, New York.



Thus, the Rules specifically contemplate that other States shall have the opportunity to comment on the "data reflected in the executive summary," that the Commission would hear the coastal State's response to these comments, and, necessarily, that the Commission would consider both the comments and the coastal State's response. These comments are clearly not to be limited to information relating to disputes, for paragraph II. (2)(b) of Annex III separately provides for "consideration of any information regarding any disputes related to the submission." Accordingly, we believe that the Rules of Procedure in fact require the Commission and Sub Commission to consider comments "from other States regarding the data reflected in the executive summary," not only comments related to disputes between States with opposite or adjacent coasts or other disputes.

Even if one were to conclude that the Commission's Rules do not require the Commission to consider communications from States other than the submitting one or ones involved in unresolved disputes, we find nothing in Annex II or the Rules that prohibits the Commission from doing so. One would assume that the Commission would use its expertise to review thoroughly the relevant scientific literature regarding the area covered by each submission. If the Commission can review scientific literature, we see no reason why it cannot at least consider the views of other States. Where the submitting State has an obvious interest in maximizing its continental shelf, other States (and the international community as a whole) have legitimate interests in the matter as well and may be able to shed light on aspects of the submission that might not have otherwise been considered.

In conclusion, we disagree with the decision of the Commission to disregard the United States' comments on Brazil's submission, and request that the Commission reconsider its conclusion. We also request that United Nations Division for Ocean Affairs and the Law of the Sea post this letter on the Commission's web site.

Thank you for your consideration.

Sincerely,



Anne W. Patterson
Ambassador