

## V. Territory

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### **Territory — Australian Antarctic Territory — Australian Claim to Sovereignty — Exclusive Economic Zone**

On 31 March 1995, the Embassy of the United States of America sent the following Note to the Department of Foreign Affairs and Trade:

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs and Trade and has the honor to refer to the proclamation which appears in the *Commonwealth of Australia Gazette* (special) No. S 290, 29 July 1994, in which the Government of Australia claims a 200 nautical mile Exclusive Economic Zone commencing 1 August 1994. In particular, the United States takes note that the proclamation declares that the outer limits of Australia's Exclusive Economic Zone comprise, *inter alia*, "(A) (II) in relation to the external territories, the lines that are 200 international nautical miles seaward of the baselines established under international law..." Taking note that Australia makes a claim to territory in Antarctica and that the Government of Australia includes this claim within the term Australian "external territories", the United States must reiterate its long-standing position that the United States 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 maritime jurisdiction. It is well-established that the principle of sovereign rights over the Exclusive Economic Zone and continental shelf adjacent to the coast, for the purpose of exploring and exploiting the natural resources of the zone and shelf, derives from the sovereignty of the coastal state over adjacent land territory. Accordingly, the United States does not consider that the marine areas and continental shelf adjacent to Antarctica are subject to the sovereign rights of any state...

On 8 August 1995, the Department of Foreign Affairs and Trade sent the following Note by way of reply to the Embassy of the United States of America:

The Department of Foreign Affairs and Trade of Australia presents its compliments to the Embassy of the United States of America and has the honour to refer to Note No. 025 of the United States Embassy of 31 March 1995 concerning Australia's proclamation establishing an Exclusive Economic Zone. The establishment of an Exclusive Economic Zone by Australia has occurred in the context of Australian implementation of the 1982 Law of the Sea Convention which entered into force on 16 November 1994. Australia ratified the Law of the Sea Convention on 5 October 1994. Australia's action in establishing an Exclusive Economic Zone (and undertaking other actions in respect of maritime zones) brings Australian law into line with the developments in the Law of the Sea Convention.

Australia notes the position of the United States concerning non-recognition of claims to territorial sovereignty. Australia reiterates its sovereignty over the Australian Antarctic Territory and observes that Article IV (I) of the Antarctic Treaty reserves the position of all Antarctic Treaty Parties in relation to matters concerning sovereignty. As coastal state for the Australian Antarctic Territory,

Australia has established its Exclusive Economic Zone in the waters adjacent to that territory, as well as adjacent to the Australian mainland and other Australian territories, in accordance with article 56 of the Law of the Sea Convention. Australia has a long standing view that Australian coastal jurisdiction in Antarctica generates maritime zones. Australia established a continental shelf adjacent to the Australian Antarctic Territory in 1953 and has long maintained a territorial sea adjacent to that Territory.

While Australia reaffirms its rights as coastal state in respect of the Australian Antarctic Territory, Australia also recognises its obligations under the Antarctic Treaty and emphasises that Australia exercises its Exclusive Economic Zone rights in Antarctica strictly in accordance with the obligations and spirit of the Antarctic Treaty and its related instruments. In particular, Australia observes that it is bound by the provisions of the Convention on the Conservation of Antarctic Marine Living Resources. Australian domestic law reflects this understanding of Australia's rights and obligations.

Australia believes that establishment of Australia's Exclusive Economic Zone adjacent to Antarctica will contribute to environmental protection of Antarctica and its ecosystem and encourage nations to join the Antarctic Treaty System—particularly those wishing to fish in Australian Antarctic waters. Australia has banned commercial whaling and regulated scientific whaling in its Exclusive Economic Zone, including in its waters adjacent to the Australian Antarctic Territory...