Note No. 013/2016

The Permanent Mission of Australia to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations and has the honour to refer to paragraph 5 of General Assembly resolution 70/236 which requested Governments' views on chapter III of the report of the International Law Commission on the work of its sixty-seventh session (A/70/10).

The Permanent Mission of Australia has the further honour to submit the enclosed comments on the aforementioned report, for transmission to the International Law Commission.

The Permanent Mission of Australia to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.

NEW YORK

12 FEBRUARY 2016

Provisional application of treaties

30. The Commission would appreciate being provided by States with information on their practice concerning the provisional application of treaties, including domestic legislation pertaining thereto, with examples, in particular in relation to

(a) the decision to provisionally apply a treaty;
(b) the termination of such provisional application; and
(c) the legal effects of provisional application.

AUSTRALIA'S RESPONSE

Under Australia's treaty practice, a treaty can only be ratified following scrutiny by a Parliamentary committee and Parliamentary approval of any necessary implementing legislation to give effect to the treaty domestically Australia will consider requests from states to provisionally apply a treaty in the period following completion of these requirements, prior to the entry into force of the treaty generally. Only in exceptional circumstances would Australia consider provisionally applying a treaty prior to the completion of the Parliamentary scrutiny process