

Responses from the Commission on the Limits on the Continental Shelf to the questions posed by the UK and like-minded States, and Brazil through the Informal Working Group, concerning its workload, 19 May 2010.

Introduction

The Commission on the Limits of the Continental Shelf (CLCS) wishes to avail itself of this opportunity to underline the fact that its official views regarding its workload have been conveyed in Statements made by its Chair at Sessions of the Meeting of States Parties from 2005 to 2009. The CLCS wishes to highlight in particular the value and importance of two presentations which have been specifically made to inform the Bureau and the Informal Working Group of the Meeting of States Parties in relation to its official views on its workload and the best avenues available to alleviate it:

- Presentation made by the CLCS to the Bureau of the Meeting of States Parties, 1 September 2009; and
- Presentation made by the CLCS to the Informal Group of the Meeting of States Parties, 14 April 2010.

Responses to UK and like-minded States

Questions:

During the meeting of the informal working group on January 26, 2010, the Commissioners at that meeting distributed a paper that included various short-term measures for 2010-2012. Questions about the short term measures are listed hereunder:

1. Have any of the short term measures been adopted and implemented by the Commission? If so, which ones have been adopted and implemented?
2. For measures adopted and implemented, what effect have those measures had on the workload of the Commission including the speed with which the Commission is able to review and complete its work on submissions, and what effect on its workload does the Commission expect these measures will have in the future?
3. For measures not yet adopted and/or implemented, what effects on its workload does the Commission expect these measures could have if adopted?
4. During the presentation on January 26, it was said that if the 2010-2012 proposals were implemented “thirty to forty” submissions could be concluded by the end of 2012. Does the Commission agree with this view and, if not, why not?

Answers:

1. In accordance with the presentation made to the Informal Group, 14 April 2010, a number of short term measures have been not only agreed but implemented for some years:
 - a. The CLCS has invoked an exception provision contained in Rule 51 4bis in order to create a fourth subcommission on three consecutive occasions since 2008 (Mexico, Indonesia and Japan).
 - b. The CLCS has consistently extended since 2004 to its maximum current capacity in 2010 the number of work weeks conducted by subcommissions at UN premises -and- home countries on an annual basis.

- c. The CLCS has agreed in principle to increase the number of Plenary Sessions from two to three while keeping the number of four plenary weeks at the current funded level by the UN General Assembly.
- d. The CLCS always remains flexible to decide on a case by case basis the number of members appointed in each subcommission in accordance with its Rules of Procedure. The number, type of expertise, and regional representation of members in a subcommission is a function of the following elements in a given submission:
 - i. data and information volume;
 - ii. size of the geographical area;
 - iii. scientific and technical complexity;
 - iv. regional setting; and
 - v. other specific scientific and technical tasks.

While it is conceivable and viable that the number of members appointed in a given subcommission may vary, the experience of the CLCS points out that seven has been, in general, a good number of members to distribute the workload in various tasks assigned to different working groups. A smaller number of members may not necessarily guarantee a more expeditious or efficient examination of a given Submission. Instead, the CLCS has endeavored to focus on the best management of its human resources according to the expertise of individual members and their workload in other subcommissions.

- e. The CLCS has already assigned one subcommission in the past with the assignment to consider two consecutive submissions. While this action proved to be the most efficient arrangement in these two submissions in their regional context and the workload of the CLCS at that specific time, this choice must be weighed carefully as a rule against other factors stemming from the considerations made in the previous point. It may not always be possible to task a given subcommission with a number of submissions based on regional representation alone, let alone the specific and potentially different characteristics of different submissions. The CLCS always endeavors to optimize its human resources and whenever it has been possible and useful to appoint the same subcommission to consider subsequent submissions, it has done so.
- f. At its twenty-second session, in 2008, the Commission decided that members of the Commission should have access to all submissions under active consideration at all times, taking into consideration the practical implications and the costs for

the Secretariat, so that they could familiarize themselves with the content of submissions, if they wished to do so. According to rule 53 (1) of its rules of procedure and unless the Commission decides otherwise, the recommendations drafted by a subcommission are considered by the Commission during the session following their transmission to the Commission by the subcommission that prepared them. In practice, however, when circumstances so allowed, the Commission has decided to consider and adopt the recommendations at the same session in which they were presented by the subcommission, in order to ensure expediency and efficiency in the light of the large number of submissions

2. It would have been impossible to achieve the results already obtained by the CLCS if it had not made its best effort to optimize the use of its human and material resources as described in the previous response with all its items. The Informal Group of the Meeting of States Parties must be reassured that the CLCS has not delayed the implementation of all the measures which have been under its control in order to deliver its mandate with utmost efficiency and dedication. These measures have been adopted by the CLCS regardless of the decisions that the Meeting of States Parties may or may not take to alleviate its workload.

The results speak for themselves in terms of the number of subcommission work weeks and the number of Recommendations delivered as described in the presentation dated 14 April 2010. The CLCS is currently working at its maximum capacity in terms of number of subcommissions, human and material resources made available by the Secretariat, and the number of weeks spent considering submissions in NY and at home countries.

3. The CLCS has not only adopted but implemented for a few years all the measures available at its disposal to increase its efficiency and optimize its human and material resources based on its current limitations as described in the presentation dated 14 April 2010.
4. The CLCS has never proposed in any of its official documents and presentations a schedule that would indicate under any assumptions the conclusion of the consideration of thirty to forty submissions by 2012. The CLCS received this question, apparently based on a personal view expressed at the informal meeting held 26 January 2010, with an element of surprise, not only based on its vast experience acquired during the consideration of all submissions for which Subcommissions have been appointed to date but also the schedule of their work based on bilateral arrangements with Submitting States in accordance with its Rules of Procedure.

The CLCS requested and received clarification from the member who expressed a view in his personal capacity in relation to the potential future schedule of work of the CLCS based under different scenarios and hypotheses, which shall not be discussed in full here. The CLCS has received clarification and it is satisfied that the message conveyed by this member was intended to indicate that, under a certain scenario including full economic support, the consideration of thirty to forty submissions could have started by the appointment of a corresponding number of subcommissions by 2012. The schedule proposed by this member did not include and it could not have possibly included, in his view, the termination dates of the consideration of submissions based on the fact that the period of consideration of each submission is a function of arrangements made between the Submitting State and the CLCS, and not solely under the control of the CLCS.

The CLCS has also indicated already in its presentation dated 14 April 2010, the difficulty that it has in fixing a specific schedule for the delivery of recommendations under insufficient information about levels of funding and any number of uncertain hypotheses inasmuch as its workload has been impacted dramatically by the following factors:

- a. the large size and high scientific and technical complexity of Submissions made by States, irrespective of submitted area (e.g., one large submission included: 9 regions - 26 presentations and 59 documents in response to 15 questions/requests for clarification posed by the subcommission; another submission made by a group of States was considered throughout 6 sessions of the CLCS; and the submission of another large State included a very large amount of data: 1 Terabyte = 1,000 Gigabytes). The CLCS Rules of Procedure and the Scientific and Technical Guidelines ensure the examination of all data contained in submissions prepared by States over periods between 5 to 10 years;
- b. the large amount of submissions delivered a few weeks prior to the deadline of 13 May 2009;
- c. Annex III, Section 1 (additional materials can be submitted throughout the consideration of Submissions and this has been done by an increasing number of submitting States); and
- d. the bilateral schedule for work established between the CLCS and each submitting State – Annex III, 6 (Clarifications, e.g., a group of States, 15

meetings over 6 sessions plus original and final presentations to the CLCS; one State 9 meetings over 3 sessions).

The CLCS wishes to point out that funding for other institutions created under the provisions of the Convention is not a contingent upon a predetermined and quantified level of activity set by any State but only the belief and trust by the States Parties that such body, appointed with a unique mandate, will endeavor to conduct its work with utmost efficiency and dedication based on the fact that it is precisely the body with the greatest expertise to fulfill it.

Responses to Brazil

Questions:

1. Which of the proposals contained in the presentation made on January 26 by the Commissioners have the consensual support of the Commission as a whole?
2. At present, when Commissioners take work back to their countries,
 - (a) What sort of tasks do they perform? and
 - (b) What steps have been taken for them to take away from the UN Headquarters the confidential material submitted by the Coastal State?

Answers:

1. In accordance with the presentation made to the Informal Group, 14 April 2010, a number of short term measures have been not only agreed but implemented for some years:
 - a. The CLCS has invoked an exception provision contained in Rule 51 4bis in order to create a 4th Subcommittee on three consecutive occasions since 2008 (Mexico, Indonesia and Japan).
 - b. The CLCS has consistently extended since 2004 to its maximum current capacity in 2010 the number of work weeks conducted by Subcommittees at UN premises -and- home countries on an annual basis.
 - c. The CLCS has agreed in principle to increase the number of Plenary Sessions from two to three while keeping the number of plenary weeks at the current funded level by the UN General Assembly.
 - d. The CLCS always remains flexible to decide on a case by case basis the number of members appointed in each subcommittee in accordance with its Rules of Procedure. The number, type of expertise and regional representation of members in a subcommittee is a function of the following elements in a given submission:
 - i. data and information volume;
 - ii. size of the geographical area;
 - iii. scientific and technical complexity;
 - iv. regional setting; and

- v. other specific scientific and technical tasks.

While it is conceivable and viable that the number of members appointed in a given subcommission may vary, the experience of the CLCS points out that seven has been, in general, a good number of members to distribute the workload in various tasks assigned to different working groups. A smaller number of members may not necessarily guarantee a more expeditious or efficient examination of a given Submission. Instead, the CLCS has endeavored to focus on the best management of its human resources according to the expertise of individual members and their workload in other subcommissions.

- e. At its twenty-second session, in 2008, the Commission decided that members of the Commission should have access to all submissions under active consideration at all times, taking into consideration the practical implications and the costs for the Secretariat, so that they could familiarize themselves with the content of submissions, if they wished to do so. According to rule 53 (1) of its rules of procedure and unless the Commission decides otherwise, the recommendations drafted by a subcommission are considered by the Commission during the session following their transmission to the Commission by the subcommission that prepared them. In practice, however, when circumstances so allowed, the Commission has decided to consider and adopt the recommendations at the same session in which they were presented by the subcommission, in order to ensure expediency and efficiency in the light of the large number of submissions

Based on current levels of support, the CLCS is confident about its capacity to deliver its mandate successfully over the next two decades in accordance with the schedule proposed in the presentation dated 14 April 2010. The CLCS believes that without further support, that schedule represents the most likely scenario which can be predicted based on our past experience gained since the time of the first submission a decade ago.

The CLCS has the view that it should work on a full-time basis to address its workload. To this end, arrangements could be made by the Meeting of States Parties in accordance with the General Assembly resolutions (A/RES/64/71) and taking into consideration SPLOS/208 and the views of the CLCS.

- 2. Members of the CLCS conduct work at home in addition to the work conducted in UN premises.

- a. The tasks identified and conducted by members in their home countries are agreed upon at the subcommission level based on the distribution of tasks among working groups and/or individuals. The nature of work varies depending on the type of personal expertise of the member and content of the submission. All work assignments conducted at home countries are guided by the Scientific and Technical Guidelines of the CLCS.
- b. All members of the Commission work under the obligation to fulfill their mandate under the provisions of Annex II of the Rules of Procedure of the CLCS relating to confidentiality.

Members of subcommissions and the Commission only take material and work to their home countries when the levels of confidentiality indicated by the submitting State allow it. Members of the CLCS are not allowed to take data and information away from UN premises when the submitting explicitly indicates that it does not intend to give permission for those actions.