

**“Establishing the Outer Limits of the Continental Shelf
under the LOSC: Oman as a Case Study”**

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Institute of Maritime Law

Summary

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Disclaimer

The views expressed herein are those of the author and do not necessarily reflect in any way or form the views of the Government of the Sultanate of Oman, the United Nations, the Nippon Foundation of Japan, or the Institute of Maritime Law at the University of Southampton in the UK.

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Dedication

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To the Sultanate of Oman

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providing me with this great opportunity to increase and deepen my knowledge about ocean affairs and the law of the sea, and to explore and write about an issue that is going to be beneficial to my country. The same amount of thanks also extends to the United Nation Division for Ocean Affairs and the Law of the Sea (DOALOS) and its staff starting with the Director General for hosting me during the first phase of the fellowship and without whom I would not have been able to write this acknowledgment. In particular, I am very grateful to Valentina Germani for her guidance and supervision, and to Simone Dempsey for her administrative support during the fellowship.

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List of Abbreviations

| | |
|---------------|---|
| CLCS | Commission on the Limits of the Continental Shelf |
| DOALOS | Division of Ocean Affairs and the Law of the Sea |

| | |
|-----------------------|---|
| DOALOS Manual | DOALOS Training Manual for Delineation of the Outer Limits of the Continental Shelf beyond 200 Nautical Miles and for Preparation of Submissions to the CLCS |
| EEZ | Exclusive Economic Zone |
| ICJ | International Court of Justice |
| ILC | International Law Commission |
| LOSC | United Nations Convention on the Law of the Sea |
| NM | Nautical Mile |
| R.O. | Royal Decree |
| ROP | Rules of Procedure of the CLCS, CLCS/40/Rev.1, adopted at its Twenty First Session, New York, 17 April 2008 |
| SPLOS | Meeting of States Parties to the LOSC |
| TALOS | A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea – 1982 (Published by the International Hydrographic Organization, Monaco. Edition 5.0.0-June 2014) |
| The Guidelines | The Scientific and Technical Guidelines of the CLCS, CLCS/11, adopted by the CLCS on 13 May 1999 at its fifth session |
| UNCLOS I | First United Nations Conference on the Law of the Sea (1958) |
| UNCLOS II | Second United Nations Conference on the Law of the Sea (1960) |
| UNCLOS III | Third United Nations Conference on the Law of the Sea (1973-1982) |
| UN | United Nations |

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| <i>Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada / United States of America) Judgment I.C.J. Reports 1984, p. 245</i> | 17 |
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| <i>Case of Arbitration between Petroleum Development (Trucial Coast) Limited and His Excellency Sheikh Shakhbut Bin Sultan Bin Za'id, Ruler of Abu Dhabi and its Dependencies (1951) 18 International Law Reports 144</i> | 15 |
| <i>The North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark, Federal Republic of Germany/Netherlands) I.C.J. Reports 1969, p. 3</i> | 16 |

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Abstract

Article 76 (1) of the United Nations Convention on the Law of the Sea stipulates that *‘the continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance’*. Proceeding from the historical nexus between Oman and the sea, and in implementation of the said Article, Oman is embarking on making a submission to the international Commission on the Limits of the

Continental shelf (CLCS) to establish the outer limits of its continental shelf that extends beneath the sea beyond the distance of 200 nautical limits from the baselines. Achieving this goal would confer to Oman more rights as well as obligations up to the future outer limits of its continental shelf which will consequently enhance and strengthen the existing nexus between Oman and the sea that overlooks its shores.

Making a submission is, however, not simple as it seems. Resources have to be allocated, people to be trained, and offshore field surveys to be conducted over a long period of time. More importantly, the requirements contained in the LOSC and its relevant documents must be carefully followed and acted upon. Then, the submission shall be written and lodged with the CLCS to be followed by an engagement with the latter until its final recommendations are provided. Thereafter, the outer limits of Oman’s continental shelf beyond the distance of 200 nautical miles from the baselines shall be established and given due publicity by depositing them with the Secretary General of the United Nations (UN). Towards this objective, Oman submitted preliminary information to the Secretary General of the UN in May 2009 indicative of the outer limits of its continental shelf beyond 200 nautical miles from the baselines and confirmed that it is actively involved in preparing a submission which will be presented within a period of 10 years from the said date. The objective is apparently clear but how to achieve it successfully in accordance with the requirements of Article 76 of the LOSC is what significantly matters. Therefore, Oman, as it moves towards lodging its submission, should ensure that the provisions of the LOSC and its relevant documents are complied with and any challenge arising will be dealt with efficiently and effectively with the ultimate aim of establishing the outer limits of the continental shelf with certainty and exercising the rights emanating therefrom with confidence.

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1. Introduction

1.1. Background and Context

‘Even in the case of Article 76 on the continental shelf, the article contains new law in that it has expanded the concept of the continental shelf to include the continental slope and the continental rise. This concession to the broad margin States was in return for their agreement for revenue-sharing on the continental shelf beyond 200 miles’.

The above remarks were expressed by the President of the Third United Nations Conference on the Law of the Sea (UNCLOS III), Tommy T.B. Koh, of Singapore, on the occasion of adopting the United Nations Convention on the Law of the Sea (LOSC) on 10 December 1982¹. Calling the latter the ‘Constitution for the Oceans’, Koh went on to say that ‘we created a new record in legal history. Never in the annals of international law had a Convention been signed by 119 countries on the very first day on which it was opened for signature. Not only was the number of signatures a remarkable fact but just as important was the fact that the Convention had been signed by States from every region of the world, from the North and from the South, from East and from the West, by coastal States as well as land-locked and geographically disadvantaged States’². These words summarize explicitly the value of the achievement that was made. Twelve years later, this important body of law entered into force, specifically on 16 November 1994; 12 months after Guyana became the 60th State to deposit an instrument of ratification or accession with the Secretary General of the United Nations (UN). At the time of writing, [165] states and the European Union are parties to this multilateral convention, making it one of the most successful multi-lateral treaties³. While the international community is still struggling to follow the success achieved with this convention on other important global issues such as climate change and world trade, States Parties to the LOSC (SPLOS) celebrated in 2014 the 20th anniversary of its entry into force. On commemorating this occasion, the Secretary General of the UN referred to the LOSC ‘as one of the most significant and visionary multilateral instruments of the twentieth

To be updated :Commented [LS1]

¹ Adapted from statements by the President on 6 and 11 December 1982 at the final session of the Conference at Montego Bay, at p. xxxiv, available online at:

http://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf [last accessed 25/09/2014].

² *Ibid*, at p. xxxiii.

³ See Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements as at 29 October 2013, available online on the website of the Division of Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the UN at:

http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm#The United Nations Convention on the Law of the Sea [last accessed 26/09/2014].

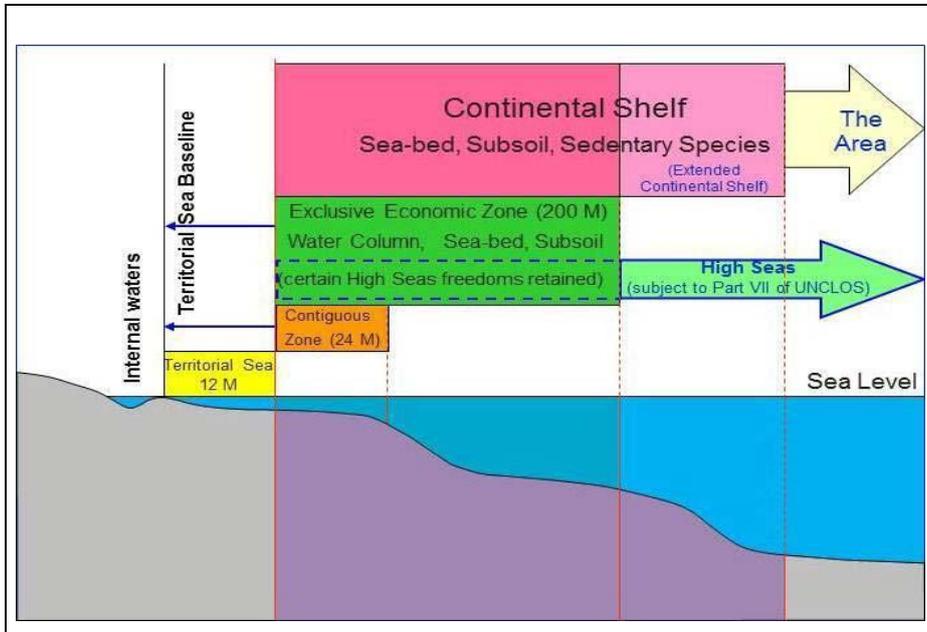
century’ noting that ‘it had shown its dynamic character through its ability to address new challenges’⁴.

The LOSC comprises 320 articles and nine annexes, governing all aspects that are related to the uses and resources of oceans and seas, such as economic and commercial activities, conservation and management of living marine resources, delimitation, environmental control and protection, marine scientific research, transfer of technology, and the settlement of maritime disputes. It was the first time in the history of the law of the sea that all these aspects were dealt with together in a collective (package) manner. After decades of disagreement, ambiguity and envisioning the ocean space from the perspective of navigation only, one of the great achievements of the LOSC is the establishment of maritime zones and setting out their outer limits precisely, upon which everything else will depend [Maritime zones already existed before UNCLOS. It may be more accurate to say that UNCLOS made their regime clearer (e.g. by eliminating the ambiguity of the ‘exploitability’ criterion in the 1958 C.Shelf Convention). According to it, maritime space, that covers almost 70% of the planet⁵, shall consist of [Add: internal waters] the territorial sea (Articles 2-32), contiguous zone (Article 33), archipelagic waters (Articles 46-54), exclusive economic zone (Articles 55-75), high seas (Articles 86-120), and the sea floor beneath the EEZ and high seas shall either be the continental shelf (Articles 76-85) and/or the international seabed area (Articles 133-185). **Figure 1** illustrates these maritime zones and their outer limits.

⁴ See Report of the twenty-fourth Meeting of States Parties, SPLOS/277, 14 July 2014, Part IV, at pp. 3-4.

⁵ See Oceans, Rio+20 The Future we Want, available online at: <http://www.un.org/en/sustainablefuture/oceans.asp> [last accessed 30/09/2014].

Figure 1: The maritime zones established by the LOSC and their outer Limits



Source: TALOS at Chapter 5-3.

There's a new and very recent edition of :Commented [LS2] TOALOS (available online). Make sure that the TALOS references are to this latest edition

Given the above in the quote referred to from Koh concerning the continental shelf, he points out that a new law [law is not appropriate here... maybe 'rule' or 'principle' or 'concept'... I'm not sure what Mr. Mubarak means exactly with 'law'] has been introduced by Article 76 of the LOSC whereby the concept of the continental shelf has expanded to include the continental slope and the continental rise which can be extended beyond 200 nautical miles in return for revenue sharing. Apparently therefore, unlike the other maritime zones, the outer limits of the continental shelf have not been defined by reference to a 'breadth-criterion' as they are subject to expansion [this word is ambiguous... it conveys the impression that they can be continuously expanded]. This is attributed to the fact that, in contrast with other maritime zones apart from the international seabed area (Area), the continental shelf is physical in nature which, as a result, differs from one state to another or from one maritime area to another for natural reasons such as tectonic history and development of the continental crusts. Therefore, at the time of negotiating the LOSC, it was not clear if all coastal states would have continental shelves beyond 200 nautical miles and if they would, no data was available to determine the breadth of such continental shelves from the landmass of every coastal state. Having realized that, 'the new law contained in Article 76

of the LOSC' was required by necessity. As generally established, laws are in principle [does he mean 'of an abstract nature?'] and theory come into existence to achieve such ends [this last part of the sentence is not clear]. From this perspective, Article 76, being described as a law [what does 'being described as a law' mean?], lays down legal rules [all articles of the Convention are legal in nature] to be followed by coastal states in the determination of the extent of expansion seawards of their continental shelf inclusive of the continental slope and rise upon which the outer limits of the continental shelf will be clearly established if they are, as **figure 1** above shows, up to a distance of 200 nautical miles or beyond. Obviously, if these limits do not go beyond 200 nautical miles, only a distance measurement, similarly to the other maritime zones, is required to draw them at that point [up to that distance]. In case of further expansion, the new 'law of Article 76' will obviously come into operation and application to determine the actual distance [Article 76 is 'new' compared to the 1958 regime also for the part of the provision that applies up to 200 nautical miles]. Given that, would it be wise and appropriate to leave everything in the hands of the coastal state to determine the expansion of its continental shelf seawards knowing that states, as entities, are generally driven by national political and economic interests in their engagement *vis-à-vis* the rest of the world?

The answer is both 'yes' and 'no'. As regards the former, coastal states have been given the right to delineate the outer limits of the other maritime zones, so why not the continental shelf. Hence, the continental shelf constitutes physically, as mentioned above, part and parcel of the landmass on which the coastal state sits and exercises its powers as a state for which it needs to know obviously where its external boundaries are located. In this vein, besides being an inherent responsibility, delineating its outer boundaries is a matter taken for granted by every state. In respect of the latter, leaving everything completely to the coastal state without checks and balances might affect, in the language of interests, the maritime zone of the Area considered as the 'common heritage of mankind'⁶. Therefore, the outer limits established by a particular coastal state need to be recognized and accepted by the international community. For this purpose and the purpose of clarity, the legal rules laid down by the new 'law of Article 76' come up with the appropriate solution. The latter lies in making a submission of the outer limits of the continental shelf that 'expand' beyond 200 nautical miles by the coastal state to an independent body to verify these limits and ensure they are in line with the said rules. In this case, the right of the coastal state is protected, and the right of the international community is duly not prejudiced. Obviously, the referred to

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⁶ Article 136 of the LOSC provides that 'The Area and its resources are the common heritage of mankind'.

solution is conducted through a process which deals, differently from the other maritime zones, with a physical part that lies over areas at deep depths in the oceans. The Division of Ocean Affairs and the Law of the Sea of the Office of the Legal Affairs of the UN (DOALOS) also adds that 'The legal regime established by the LOSC for the delineation of the outer limits of the extended continental shelf is very complex. It combines both legal and scientific concepts, rendering its interpretation challenging for both legal practitioners with no scientific background, and marine scientists without legal training'⁷.

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At the time of negotiating the LOSC, a list was drawn up by the UN Secretariat containing 33 names of coastal states with a continental shelf extending beyond a 200 nautical miles from the baselines from which the territorial sea is measured⁸. Another list was published, not by the Secretariat this time, in 1998 with 56 states⁹. After the entry into force of the LOSC and beginning of implementation of the provisions of Article 76 contained therein, the number of actual submissions made to extend the continental shelf beyond 200 nautical miles has gradually increased to reach, at the time of writing, 75 [figure to be updated] submissions made by 68 coastal states. **Table 1** shows the current number of submissions and their dates.

⁷ See DOALOS Manual, at p. xix.

⁸ See Peter F. Croker, 'The CLCS: a Further Update on the Work of the Commission' published in *The Establishment of the Outer Limits of the Continental Shelf beyond 200 Nautical Miles- Its International Circumstances, and its Scientific and Technical Aspects*, (Ocean Policy Research Foundation, Tokyo, 2007) at p. 14.

⁹ *Ibid.*

Table 1: The current number of submissions to extend the continental shelf beyond 200 nautical miles and their dates.

| | Submission by [State] | Date of submission |
|------|---|--------------------|
| 1. | Russian Federation | 20 December 2001 |
| 1a. | Russian Federation - partial revised Submission in respect of the Okhotsk Sea | 28 February 2013 |
| 2. | Brazil | 17 May 2004 |
| 3. | Australia | 15 November 2004 |
| 4. | Ireland - Porcupine Abyssal Plain | 25 May 2005 |
| 5. | New Zealand | 19 April 2006 |
| 6. | Joint submission by France , Ireland , Spain and the United Kingdom of Great Britain and Northern Ireland - in the area of the Celtic Sea and the Bay of Biscay | 19 May 2006 |
| 7. | Norway - in the North East Atlantic and the Arctic | 27 November 2006 |
| 8. | France - in respect of the areas of French Guiana and New Caledonia | 22 May 2007 |
| 9. | Mexico - in respect of the western polygon in the Gulf of Mexico | 13 December 2007 |
| 10. | Barbados | 8 May 2008 |
| 10a. | Barbados - revised | 25 July 2011 |
| 11. | United Kingdom of Great Britain and Northern Ireland - Ascension Island | 9 May 2008 |
| 12. | Indonesia - North West of Sumatra Island | 16 June 2008 |
| 13. | Japan | 12 November 2008 |
| 14. | Joint submission by the Republic of Mauritius and the Republic of Seychelles - in the region of the Mascarene Plateau | 1 December 2008 |
| 15. | Suriname | 5 December 2008 |
| 16. | Myanmar | 16 December 2008 |
| 17. | France - areas of the French Antilles and the Kerguelen Islands | 5 February 2009 |
| 18. | Yemen - in respect of south east of Socotra Island | 20 March 2009 |
| 19. | United Kingdom of Great Britain and Northern Ireland - in respect of Hatton Rockall Area | 31 March 2009 |
| 20. | Ireland - in respect of Hatton-Rockall Area | 31 March 2009 |
| 21. | Uruguay | 7 April 2009 |
| 22. | Philippines - in the Benham Rise region | 8 April 2009 |
| 23. | The Cook Islands - concerning the Manihiki Plateau | 16 April 2009 |
| 24. | Fiji | 20 April 2009 |
| 25. | Argentina | 21 April 2009 |
| 26. | Ghana | 28 April 2009 |
| 27. | Iceland - in the Aegir Basin area and in the western and southern parts of Reykjanes Ridge | 29 April 2009 |
| 28. | Denmark - in the area north of the Faroe Islands | 29 April 2009 |
| 29. | Pakistan | 30 April 2009 |
| 30. | Norway - in respect of Bouvetøya and Dronning Maud Land | 4 May 2009 |
| 31. | South Africa - in respect of the mainland of the territory of the Republic of South Africa | 6 May 2009 |
| 32. | Joint submission by the Federated States of Micronesia , Papua New Guinea and Solomon Islands - concerning the Ontong Java Plateau | 5 May 2009 |
| 33. | Joint submission by Malaysia and Viet Nam - in the southern part of the South China Sea | 5 May 2009 |
| 34. | Joint submission by France and South Africa - in the area of the Crozet Archipelago and the Prince Edward Islands | 5 May 2009 |
| 35. | Kenya | 5 May 2009 |
| 36. | Mauritius - in the region of Rodrigues Island | 5 May 2009 |
| 37. | Viet Nam - in North Area (VNM-N) | 7 May 2009 |
| 38. | Nigeria | 7 May 2009 |
| 39. | Seychelles - concerning the Northern Plateau Region | 7 May 2009 |
| 40. | France - in respect of La Réunion Island and Saint-Paul and Amsterdam Islands | 8 May 2009 |
| 41. | Palau | 8 May 2009 |
| 42. | Côte d'Ivoire | 8 May 2009 |
| 43. | Sri Lanka | 8 May 2009 |
| 44. | Portugal | 11 May 2009 |
| 45. | United Kingdom of Great Britain and Northern Ireland - in respect of the Falkland Islands, and of South Georgia and the South Sandwich Islands | 11 May 2009 |

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|-----|--|-------------------|
| 46. | Tonga | 11 May 2009 |
| 47. | Spain - in respect of the area of Galicia | 11 May 2009 |
| 48. | India | 11 May 2009 |
| 49. | Trinidad and Tobago | 12 May 2009 |
| 50. | Namibia | 12 May 2009 |
| 51. | Cuba | 1 June 2009 |
| 52. | Mozambique | 7 July 2010 |
| 53. | Maldives | 28 July 2010 |
| 54. | Denmark - Faroe-Rockall Plateau Region | 5 December 2010 |
| 55. | Bangladesh | 25 February 2011 |
| 56. | Madagascar | 29 April 2011 |
| 57. | Guyana | 6 September 2011 |
| 58. | Mexico - in respect of the eastern polygon in the Gulf of Mexico | 19 December 2011 |
| 59. | United Republic of Tanzania | 18 January 2012 |
| 60. | Gabon | 10 April 2012 |
| 61. | Denmark - in respect of the Southern Continental Shelf of Greenland | 14 June 2012 |
| 62. | Tuvalu, France and New Zealand (Tokelau) - in respect of the area of the Robbie Ridge | 7 December 2012 |
| 63. | China - in Part of the East China Sea | 14 December 2012 |
| 64. | Kiribati | 24 December 2012 |
| 65. | Republic of Korea | 26 December 2012 |
| 66. | Nicaragua - in the southwestern part of the Caribbean Sea | 24 June 2013 |
| 67. | Federated States of Micronesia - in respect of the Eauripik Rise | 30 August 2013 |
| 68. | Denmark - in respect of the North-Eastern Continental Shelf of Greenland | 26 November 2013 |
| 69. | Angola | 5 December 2013 |
| 70. | Canada - in respect of the Atlantic Ocean | 6 December 2013 |
| 71. | Bahamas | 6 February 2014 |
| 72. | France - in respect of Saint-Pierre-et-Miquelon | 10 April 2014 |
| 73. | Tonga - in the western part of the Lau-Colville Ridge | 23 April 2014 |
| 74. | Somalia | 21 July 2014 |
| 75. | Joint Submission by Cabo Verde, The Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone - in respect of areas in the Atlantic Ocean adjacent to the coast of West Africa | 26 September 2014 |

Source: DOALOS website, Commission on the Limits of the Continental Shelf (CLCS), available at: http://www.un.org/depts/los/clcs_new/commission_submissions.htm [last accessed 01/10/2014].

Notwithstanding that, the above list is still not exhaustive as some coastal states with a continental shelf that extend potentially beyond 200 nautical miles have not yet submitted and are expected to do so in the near future [the number of total submissions will be further increased by the fact that some states have not yet reached the 10 year deadline; other States will become party to the Convention in the future and their 10 year deadline will clock from then; others may decide to come up with a revised submission after having received recommendations]. An example of these states is the Sultanate of Oman (hereinafter referred to as ‘Oman’) which has a long coast overlooking the vast Indian Ocean. Rather, Oman, as other states, submitted only preliminary information (PI) to the Secretary General of the UN on 15 April 2009 indicative of the outer limits of the continental shelf beyond 200 nautical miles, and a description of the status of preparation and intended date of making a submission. **Table 2** shows the number and date of Oman’s preliminary information amongst other preliminary information submitted by other coastal states until the date of 6 December 2013.

Table 2: The number and date of Oman's preliminary information amongst other coastal states' preliminary information.

| Preliminary information submitted by (State) | received on |
|--|-----------------|
| Angola (preliminary information) | 12 May 2009 |
| Bahamas (preliminary information) | 12 May 2009 |
| Benin (preliminary information) (updated preliminary information) | 12 May 2009 |
| Bhutan et Topo (preliminary information) (arab) (arab) (updated preliminary information) | 2 April 2009 |
| Brunei Darussalam (preliminary information) | 12 May 2009 |
| Canada (preliminary information-English) (preliminary information-French) | 6 December 2013 |
| Cameroun (preliminary information) | 11 May 2009 |
| Cabo Verde (preliminary information) (appendix) | 7 May 2009 |
| Chile (preliminary information- Spanish) (preliminary information- English) (note- Spanish) (note- English) | 6 May 2009 |
| China (preliminary information- Chinese) (preliminary information- English) | 11 May 2009 |
| Comoros (preliminary information) | 2 June 2009 |
| Congo (preliminary information) | 12 May 2009 |
| Costa Rica (preliminary information) (communication dated 12 April 2012) | 11 May 2009 |
| Cuba (preliminary information) | 12 May 2009 |
| Democratic Republic of the Congo (preliminary information) (arab) (arab) | 11 May 2009 |
| Equatorial Guinea (preliminary information) | 14 May 2009 |
| Fiji in respect of the South East Region of the North Fiji Basin, Lau-Coville, Tonga-Kermadec Complex (preliminary information) | 21 April 2009 |
| Fiji and Solomon Islands on the Charlotte-Bank Region (preliminary information) (bure) | 21 April 2009 |
| Fiji, Solomon Islands and Vanuatu on the North Fiji Basin (preliminary information) (bure) | 21 April 2009 |
| France - Polynésie française et Wallis et Futuna (preliminary information) | 6 May 2009 |
| France - Saint-Pierre-et-Miquelon (preliminary information) | 6 May 2009 |
| Gabon (preliminary information) (communication dated 3 August 2011) | 12 May 2009 |
| Gambia (preliminary information) | 4 May 2009 |
| Guinea (preliminary information) | 11 May 2009 |
| Guinea-Bissau (preliminary information) | 8 May 2009 |
| Guyana (preliminary information) | 12 May 2009 |
| Mauritania (preliminary information) | 11 May 2009 |
| Mauritius in the Chagos Archipelago Region (preliminary information) (communication dated 29 May 2013) (communication dated 19 June 2014) | 6 May 2009 |
| Mexico en el polígono oriental del Golfo de México (preliminary information) | 6 May 2009 |
| Micronesia (Federated States of) for the Eschscholtz Rise and Mussau Ridge Areas (preliminary information) (Eschscholtz Rise region) (Mussau Ridge region) (www) | 6 May 2009 |
| Mozambique (preliminary information) | 11 May 2009 |
| New Zealand - Tokelau (preliminary information) | 11 May 2009 |
| Nicaragua (preliminary information) | 7 April 2010 |
| Oman in respect of the area that includes the narrow bathymetric shelf adjacent to the land mass of Oman, the Owen basin, and the Owen Ridge, and that abuts the deep ocean floor of the Arabian Indian Sea (Indian fan) (preliminary information) | 15 April 2009 |
| Papua New Guinea for the Mussau Ridge and Eschscholtz Rise Areas (preliminary information) (Eschscholtz Rise region) (Mussau Ridge region) (www) | 6 May 2009 |
| Republic of Korea (preliminary information) | 11 May 2009 |
| Sao Tome and Principe (preliminary information) | 13 May 2009 |
| Senegal (preliminary information) | 12 May 2009 |
| Seychelles in the Aldabra Island Region (preliminary information) | 8 May 2009 |
| Sierra Leone (preliminary information) | 12 May 2009 |
| Solomon Islands (preliminary information) | 6 May 2009 |
| Somalia (communication) (preliminary information) (memorandum of understanding, 2) (appendix) | 14 April 2009 |
| Spain en el área al Oeste de las Islas Canarias (preliminary information) | 11 May 2009 |
| Togo (preliminary information) | 6 May 2009 |
| United Republic of Tanzania (preliminary information) (attachments) (communication dated 27 April 2011) | 7 May 2009 |
| Vanuatu (preliminary information, revised, 18 July 2012) (preliminary information) | 10 August 2009 |

Source: DOALOS website, Commission on the Limits of the Continental Shelf (CLCS), available at: http://www.un.org/depts/los/clcs_new/commission_preliminary.htm [last accessed 02/10/2014].

Notwithstanding the fact that submitting preliminary information *per se* is a step towards making a full submission, not being able to do the latter directly can be construed as a sign of difficulty. On the other side, it can be construed by others as an advantage to have the time that is necessary to make a submission in accordance with the referred to law of Article 76 and other relevant requirements. Moreover, it might also be considered as an opportunity to learn from the submissions made already by other coastal states and the recommendations provided by the CLCS for them. Indeed, establishing ultimately the outer limits of the continental shelf beyond 200 nautical miles by all coastal states is a great move towards defining clearly the limits of the oceans [certainty of the limits is not connected by the distance at which the limits are drawn]. It also enables the right of the coastal states to explore and exploit economically the natural resources that lie in their continental shelves beyond the distance of 200 nautical miles from the baselines to be exercised with confidence and certainty. It is undoubtedly a long way until that goal is finally reached and establishing the outer limits of the continental shelf on the basis of the recommendations provided by the CLCS constitutes the first half of this way. That being said, this paper aims to provide an early assessment of Oman's forthcoming submission to the CLCS to establish the outer limits of its continental shelf beyond the distance of 200 nautical miles from the baselines from the angles of the referred to Article 76 of the LOSC and all other relevant documents to the submission process with the aim to put it on the right path.

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1.2. Scope and Objectives

The scope of this paper is generally [to provide an overview of?] the submission process before the CLCS and specifically the forthcoming submission of the Sultanate of Oman to extend the outer limits of its continental shelf beyond the distance of 200 nautical miles from the baselines against the background of the preliminary information it submitted in 2009, Article 76 of the LOSC and Annex II to it, the Scientific and Technical Guidelines of the CLCS and its Rules of Procedure and the submissions made by neighbouring and other coastal states and their relevant recommendations. This is followed by an examination of the challenges that Oman might encounter in the process of making the submission and during the submission process with the aim of finding the right solutions and the best ways to move forward. Although Oman's forthcoming submission, which is under preparation, is the main focus of this paper, the approach of assessment followed herein could be used for other submissions to be made by other coastal states. The primary objective [a research paper cannot have this goal as it has no formal role in the making of a submission] is to ensure that

Oman's forthcoming submission meets the legal and technical requirements contained in Article 76 of the LOSC, Annex II to the Convention, and the other documents associated with the submission process in order to minimise and mitigate the obstacles that might be faced and thus to be on the right track until the deposit of geographic information of the established outer limits with the Secretary General of the UN.

1.3. Methodology and Approach

In attempting to achieve the above objectives, the paper consists of two parts whereby the analysis of the second part builds on the contents of the first part. It relies mainly on literature review, namely books, articles and official UN documents related to the submission process and work of the CLCS. Also, Oman's relevant legislation, international case law, submissions made by some coastal states and the recommendations approved by the CLCS are reviewed and referred to throughout the discussion of some parts of the paper. There is no field work or survey carried out during the writing of this paper except in section one of chapter five where a meeting held with a senior scientist in the National Oceanography Centre in the UK. It has to be stated as well that while more emphasis has been given to legal aspects, considerable attention has been devoted also to technical and scientific issues to support the discussion.

In order to provide the detailed background necessary for a full appreciation of the issue under examination, the first part of the paper provides a historical background of the development of the concept of the continental shelf and the definition provided finally to it by the adoption of the LOSC. The analysis then extends to discuss thoroughly the role and structure of the CLCS and the submission in terms of procedure, costs and benefits. Taking part one as its background and the preliminary information submitted by Oman in 2009, part two of the paper will then conduct a thorough examination of Oman's forthcoming submission [methodologically speaking: how can part two contain a thorough examination of a submission that has not been made yet + even if it had been met it would not be available to the public for review? So at most it could be a review of a future executive summary] by taking into account the submissions made by states with opposite and adjacent coasts, submissions and recommendations of some coastal states with a continental margin wholly or partially similar to that of Oman, and the different types of challenges that might be encountered on the way towards making the submission and afterwards.

1.4. Structure of the Thesis

The paper is divided into six chapters. The first one is this chapter which provides an introduction and brief background to the research under examination. Then the paper will take, as outlined above, the form of two parts whereas the second and third chapters make the first part, and chapters four and five make the second part respectively as the following:

Chapter two introduces the historical development of the concept of the continental shelf until the adoption of the LOSC. It also analyses the definition of the continental shelf provided in Article 76 of the LOSC and the way that the outer limits of the continental shelf beyond 200 nautical miles should be delineated by the coastal state.

Chapter three examines the body established by the LOSC to review the submissions made by coastal states (CLCS) in terms of membership, structure and role as well as the submission process brought before it by States Parties to the LOSC, and the benefits and costs arising from that process for these states.

Chapter four discusses the forthcoming submission by Oman in light of the preliminary information it submitted in 2009 against: first, the provisions of Article 76 and the Scientific and Technical Guidelines of the CLCS in terms of defining the outer limits of its continental shelf; and second, the submissions made by states with opposite and adjacent coasts, and the recommendations provided by the CLCS in respect of some of the submissions which share a feature similar to that of Oman's continental margin.

Chapter five is devoted to examine the types of challenges that Oman's submission might potentially encounter and the way forward.

Finally, the paper will be concluded by chapter six (conclusion) which will provide a summary of findings and recommendations.

First Part:

What are the origin and legal framework of the concept of the ‘continental shelf’? What is its definition? And how its limits are established and by whom? These questions constitute important elements that every coastal state should be fully aware of when it decides to lodge a submission with the Commission on the Limits of the Continental Shelf (CLCS) in order to extend the outer limits of its continental shelf beyond 200 nautical miles from the baselines from which the territorial sea is measured. Having said that, this part of the paper will consist of two chapters each of which will be devoted to provide thorough answers to the above questions.

2. The Continental Shelf

2.0. Introductory Remarks

As in the case of international law in general, the development of the law of the sea has been driven by the needs of states. So has the development of the legal concept of the continental shelf. Furthermore, the latter constitutes a good example for understanding the process through which most of the principles of international law, including those codified by the LOSC, have progressively evolved and formed. Initially, the concept started its evolutionary journey in state practice and then entered the sphere of case law until it eventually achieved universality through a hard law. Finding a precise definition for it accepted generally and uniformly by all states was the key milestone in this journey. This was successfully achieved through the LOSC which marked the end of contributions made by three main sources of international law, as enshrined in Article 38 of the Statute of International Court of Justice¹⁰, in the development of the regime of the continental shelf. In light of this, this chapter aims to analyse this historical journey as chronologically developed, followed by an examination of its recognized definition as provided by the LOSC.

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¹⁰ The said article provides that ‘The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law’. Chapter II: Competence of the Court.

2.1. Historical Background:

2.1.1. State Practice

Prior to 1945, claims over the continental shelf differed in nature and content, and were limited to the resources of specific areas of the sea bed¹¹. This can be attributed to the lack of knowledge at that time of what was beneath the continental shelf as a result of the lack of or little technological and scientific capabilities available. Only in 1945 did states start to take a practical approach regarding their claims to the continental shelf. This movement was firstly initiated by President Harry S. Truman of the United States of America (USA) who proclaimed, what later became known as Truman's Proclamation, on 28 September 1945 that " [...] having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea-bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control "¹². It is clear from the wording of this proclamation that it was driven significantly by economic factors. According to Gary Knight and Hungdah Chiu, American geologists believed and expected at that time that valuable deposits of oil and minerals extended beyond the traditional limit of national jurisdiction¹³. Despite that, the proclamation did not interfere with the rights of navigation in the waters over the shelf and was confined to natural resources of the subsoil and sea-bed of the continental shelf¹⁴.

Truman's Proclamation, having come to be regarded as the starting point of the positive law on the continental shelf, provoked other states to follow suit. The President of Mexico immediately on the 29th of October 1945 issued a declaration asserting Mexican jurisdiction, control and protection over the continental shelf bordering its territory¹⁵. Almost a year later, the President of Argentina passed a decree on the 11th of October 1946 declaring Argentina's continental shelf to be subject to the sovereign power of the nation, followed by a

¹¹ Examples of these claims are Portugal's claim in 1910, the Russian Empire's Pronouncement in 1916, Ceylon's claim in 1925, and Treaty of the Gulf of Paria between the United Kingdom and Venezuela in 1942. See Gary Knight & Hungdah Chiu, *The International Law of the Sea: Cases, Documents, and Readings* (Elsevier Applied Science, London, 1991) at pp. 406- 409.

¹² Cited in Henry F. Holland, 'The Juridical Status of the Continental Shelf' (1952) 30 *Texas Law Review* at p. 590. The USA reaffirmed the proclamation in 1953 in the Submerged Lands Act and the Outer Continental Shelf Act.

¹³ See footnote no. 11 at pp. 410-411.

¹⁴ See Edwin Borchard, 'Resources of the Continental Shelf' (1946) 40 *American Journal of International Law* 1 at p.53.

¹⁵ See Richard Young, 'Recent Developments with Respect to the Continental Shelf' (1948) 42 *American Journal of International Law* 4 at pp. 851-852.

Capitalize "States" through the :Commented [LS3] whole thesis

similar declaration by Nicaragua on the 1st of May 1947¹⁶. Moreover, deviating from the approach adopted by Truman's Proclamation, Chile by a Presidential declaration on the 23rd June 1947, announced that the Government of Chile confirmed and proclaimed national sovereignty over the continental shelf and water column above it up to a line of 200 miles from the coast¹⁷. Likewise, Peru and Costa Rica followed the same approach in their claims on the 1st of August 1947, and the 28th of July 1948 respectively¹⁸. Also, other claims of various natures were put forward, through different legislative mechanisms, by, *inter alia*, Guatemala, the Philippines, Iceland, the United Kingdom, Honduras, Pakistan, Ecuador, Brazil and some Arab states¹⁹.

The advance and emergence of technical possibilities to explore and exploit natural resources in the subsoil of the continental shelf facilitated this process and made the exploration and exploitation of seabed minerals possible²⁰. With the help of the new technology, states became able to reach deeper to the sea bed and farther beyond the traditional limit of the territorial sea. The above claims marked the formation of a new norm in international law. However, there was a disagreement as whether they constituted at the time a norm of customary international law since they were not generally and uniformly recognised and accepted by all states²¹. Hence, some states objected to each other's claims. Josef L. Kunz described the situation as one of confusion and abuse²². Confusion in the sense that they were different from each other, and abuse of the concept of sovereignty and legal regime of the high seas and its traditional freedoms. Furthermore, none of the claims provided a clear definition of the continental shelf particularly in terms of breadth and associated rights.

Consequently, there was a need to place consistent and clear limits to the claims of the continental shelf, and importantly to put an end to unilateralism, inconsistency and uncertainty.

¹⁶ *Ibid* at pp. 852-853. Argentina's continental shelf is known to be of large size and length.

¹⁷ *Ibid* at pp. 853-854.

¹⁸ *Ibid* at pp. 854-855. Differently from Argentina's wide continental shelf and earlier claims, Chile and Peru claimed full sovereignty over a 200 nautical miles continental shelf, while they do not seem to have physically real continental shelves. This extravagant move was, to a large extent, motivated by a desire to limit the access of distant-water fishing fleets and to control the depletion of fish stocks in their adjacent seas. See Josef L. Kunz, 'Continental Shelf and International Law: Confusion and Abuse' (1956) 50 *American Journal of International Law* 4 at pp. 834-835.

¹⁹ See David Lehman, 'The Legal Status of the Continental Shelf' (1960) 20 *Louisiana Law Review* at pp. 648-649. Most of these claims also represented a departure from the traditional three mile limit of the territorial sea.

²⁰ See A.A. Kovalev, *Contemporary Issues of the Law of the Sea: Modern Russian Approaches* (Eleven International Publishing, 2003, the Netherlands, edited and translated by W.W. Butler in 2004) at p. 87.

²¹ See Josef L. Kunz, 'Continental Shelf and International Law: Confusion and Abuse' (1956) 50 *American Journal of International Law* 4 at p.828.

²² *Ibid* at p. 828.

The examples of State practice cited above :Commented [LS4] are not themselves a norm. But, rather, they contributed to the shaping of international practice that led to the emergence of a new rule of international customary nature

2.1.2. International Case Law

Similarly to the national level, courts' decisions have been making a significant contribution at the international level in developing international law and recognizing rules of customary international law. It has been established therefore that 'the content of customary international law may be influenced or even determined by a judgment of the Court [...] the intrinsic authority of the Court's decisions and the coherence of its case-law are fundamental factors which enable it to contribute to the development of international law'²³. The above mentioned unilateral claims of the continental shelf by littoral states were generally motivated by the interest of these states to secure offshore resources and/or prevent others from doing so. As a result, competition, tension, and maritime disputes emerged to the surface leading to destabilization of peace and regional security. To peacefully avoid and prevent this scenario, some states resorted to arbitration and internationally recognized judicial bodies whose decisions, consequently, provided clarity to the concept of continental shelf, and contributed towards the crystallization of the concept as a generally accepted rule.

Historically, the first attempt in this respect was rendered by Lord Asquith (Arbitrator) in the *Case of Arbitration between the Petroleum Development (Trucial Coast) Limited and His Excellency Sheikh Shakhbut Bin Sultan Bin Za'id, Ruler of Abu Dhabi and its Dependencies*²⁴ in 1951 wherein he stated that the doctrine of the continental shelf was not yet 'admitted to the canons of international law'. Obviously, this case, by applying a restrictive view, did not create a platform for a progressive development. On the other side, *the North Sea Continental Shelf Cases*²⁵ of 1969 is traditionally regarded as an important landmark in the development of the rules governing the continental shelf which paved the way for a further role to be played by case law in the formation of the regime of the continental shelf and importantly in the establishment of treaty law. In these cases, the International Court of Justice (I.C.J.) concluded that 'the rights of the coastal State in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist *ipso facto* and *ab initio*, by virtue of its sovereignty over the land, and

²³ Cited in Barbara Kwiatkowska, *Decisions of the World Court Relevant to the UN Convention on the Law of the Sea* (Kluwer Law International, the Hague, 2002) at p. xiii.

²⁴ 18 International Law Reports 144, p.253. For a commentary, see Edwin J. Cosford Jr., 'The Continental Shelf and the Abu Dhabi Award' (1953) 1 *McGill Law Journal* at pp.109-127. Note however that there is a controversy in regarding this case as an international case due to the commercial nature of the dispute and type of the parties involved.

²⁵ See North Sea Continental Shelf Cases (*Federal Republic of Germany/Denmark, Federal Republic of Germany/Netherlands*) I.C.J. Reports 1969.

Are you referring to 'international courts'? :Commented [LS5]
Otherwise the juxtaposition with 'national level' is not clear

ICJ? :Commented [LS6]

as an extension of it in an exercise of sovereign rights for the purpose of exploring the seabed and exploiting its natural resources. In short, there is here an inherent right. In order to exercise it, no special legal acts had to be performed²⁶. These set of principles eventually, as will be illustrated below, found their way into treaty law. The Court noted that the continental shelf belongs simply to a coastal state by reason of its ‘sovereignty over its land territory’ of which the continental shelf constitutes a natural extension. Eight years later, the Arbitral Tribunal in the *Anglo-French Continental Shelf Delimitation Case*²⁷, stated that ‘in international law, the concept of the continental shelf is a juridical concept which connotes the natural prolongation under the sea not of a continent or geographical land mass but of the land territory of each state’²⁸. Differently from the *North Sea Continental Shelf Cases*, the Tribunal in this case was of the view that ‘[...] in these cases, the effect to be given to the principle of natural prolongation of the coastal State’s land territory is always dependent not only on the particular geographical and other circumstances but also on any relevant considerations of law and equity’²⁹.

Following these two cases, the I.C.J. had the opportunity to elaborate further in the evolution of the doctrine of the continental shelf notably at other important junctures. The first one was the *Aegean Sea Continental Shelf Case*³⁰ whereby the court emphasized its decision of the *North Sea Continental Shelf Cases* by stating that ‘[...] legally a coastal State’s rights over the continental shelf are both appurtenant to and directly derived from State’s sovereignty over the territory abutting on that continental shelf [...] the continental shelf is a legal concept in which the principle is applied that the land dominates the sea [...] in short, the continental shelf rights are legally both an emanation from and automatic adjunct of the territorial sovereignty of the coastal State’³¹. The same approach particularly the principle of ‘the land dominates the sea’ was reaffirmed again in the *Case Concerning the Continental Shelf (Tunisia / Libyan Arab Jamahiriya)*³². In 1984, the I.C.J. reiterated also in

²⁶ *Ibid*, paragraphs 18-20. In this regard, it is worth recalling that states, according to Article 1 of the Montevideo Convention on the Rights and Duties of States of 26 December 1933, have 3 fundamental components: (i) a territory; (ii) a population; (iii) a government exercising its exclusive power over such territory and population. The power of a state over its territory – referred to as ‘territorial sovereignty – covers not only its land but also certain areas of the sea adjacent to it.

²⁷ *United Kingdom v. France* [1977] Decision of 30 June 1977; Interpretative Decision of 14 March 1978, Published in *International Law Reports*, Vol. 54. For a commentary about this case, see E.D. Brown, ‘The Anglo – French Continental Shelf Case’, (1979) 16 *San Diego Law Review* 3 at pp. 461-530.

²⁸ *Ibid*, Para. 191.

²⁹ *Ibid*, para. 194.

³⁰ Judgment, I.C.J. Reports 1978.

³¹ *Ibid*, para. 86.

³² Judgment, I.C.J. Reports 1982, para. 73. For a commentary about this case, see Mark B. Feldman ‘The Tunisia-Libya Continental Shelf Case, Geographic Justice of Judicial Compromise’ (1983) 77 *American Journal of International Law* 2 at pp. 219-238.

the *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada / United States of America)*³³ that ‘in the Chamber’s opinion it is therefore correct to say that international law confers on the coastal State a legal title to an adjacent continental shelf or to a maritime zone adjacent to its coasts’³⁴. In the following year, the court went on to state in the *Case Concerning the Continental Shelf (Libyan Arab Jamahiriya / Malta)*³⁵ that ‘The capacity to engender continental shelf rights derives not from the landmass, but from sovereignty over the landmass; and it is by means of the maritime front of this landmass, in other words by its coastal opening, that this territorial sovereignty brings its continental shelf into effect’³⁶.

Temporally speaking, this body of case law has undoubtedly played a progressive role in the development of the new-emerging doctrine of the continental shelf and clarification of the existing state practice. In this respect, it is worth noting that this case law had been moving in parallel and side by side with state practice, and sometimes even after attempts of codification *via* multilateral conventions. Therefore, a complementary dimension was in progress. Notwithstanding that, the above case law was primarily concerned with finding the rules and principles of delimiting the continental shelf between states in dispute. Therefore, the controversial problems remained unsettled. No precise meaning of the concept of the continental shelf was provided and its limits were left undetermined. While the doctrine of the continental shelf has not itself weakened, adopting an international instrument of a universal character generally agreed upon by states was a necessity.

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2.1.3. Treaty Law

There was an attempt at a relatively early stage in the twentieth century to examine the issue of jurisdiction and property rights over marine resources by the Hague Conference of 1930 but this issue went undiscussed³⁷. Two decades later and after realizing the consequences of states’ unilateral claims over the continental shelf particularly their impact

³³ Judgment I.C.J. Reports 1984. For a commentary about this case, see L. H. Legault and Blair Hankey, ‘From Sea to Seabed: The Single Maritime Boundary in the Gulf of Maine Case’ (1985) 79 *American Journal of International Law* 4 at pp. 961-991.

³⁴ *Ibid.*, para. 103.

³⁵ Judgment, I.C.J. Reports 1985. For a commentary about this case, see L. A. Willis, ‘From Precedent to Precedent: The Triumph of Pragmatism in the Law of Maritime Boundaries’ (1986) 24 *Canadian Yearbook of International Law* at pp. 3-60.

³⁶ *Ibid.*, para. 49.

³⁷ See R. R. Churchill & A. V. Lowe, *The Law of the Sea* (Manchester University Press, Manchester, 1999, 3rd edition) at pp. 142-143.

on the legal regime of the high seas and its freedoms, the International Law Commission (ILC) tried, in preparation for the First United Nations Conference on the Law of the Sea (UNCLOS I) in Geneva, to address in its Draft Articles Concerning the Law of the Sea the concept of the continental shelf; however, the seaward limit of the shelf was not satisfactorily resolved by the ILC or by states³⁸. Despite that, these articles formed the basis for the four Geneva Conventions, including the Convention on the Continental Shelf of 1958³⁹.

In its early years, the 1958 Convention on the Continental Shelf made a success with 58 ratifications and 43 signatories (see **Appendix 1**). Nevertheless, it failed the test of time as a result of the definition it provided for the concept of the continental shelf which was heavily criticized for various reasons but mainly for the use of ‘exploitability’ as a criterion to determine the seaward limits of the continental shelf⁴⁰. Clearly, this criterion was open-ended and introduced a continuing uncertainty about the precise extent of offshore claims, for the possibility of exploitation is a variable factor dependent on the state of technology at any given time at the expense of the regime of the high seas and for the benefit of only those few states possessing the necessary technology for exploitation⁴¹. This even led the United Nations General Assembly by a resolution in 1969 to state that the Convention on the Continental Shelf ‘does not define with sufficient precision the limits of the area over which a coastal State exercises sovereign rights for the purpose of exploration and exploitation of the natural resources’⁴².

Consequently, the matter was revisited during the Third United Nations Conference on the Law of the Sea (UNCLOS III), at a time when a large number of states were gaining

³⁸ See Donald R Rothwell & Tim Stephens, *The International Law of the Sea* (Hart Publishing Ltd, Oxford, 2010) at p. 102. The Draft Articles (67-73) were adopted by the ILC in 1956 and defined the outer limit of the continental shelf by reference to ‘where the depth of the superjacent waters admits of the exploitation of the natural resources of the seabed and subsoil. In fear of uncertainty and disputes, the ILC added this criterion to the criteria of 200 metres isobath, which was using previously to determine the outer limit of the continental shelf.

³⁹ *Ibid.* The four Geneva Conventions were the Convention on the Territorial Sea and Contiguous Zone, Convention on the High Seas, Convention on Fishing and Conservation of the Living Resources of the High Seas, and Convention on the Continental Shelf which were all adopted by UNCLOS I in 1958.

⁴⁰ Article 1 of the Convention, in a repetition of what the ILC earlier articulated, stipulates that ‘the term ‘continental shelf’ is used as referring to (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar areas adjacent to the coasts of islands’. The other criticisms of this definition centred on the imprecise and vague meanings of the words ‘adjacent’ and ‘natural resources’.

⁴¹ See Richard Young, ‘The Geneva Convention on the Continental Shelf: A First Impression’ (1958) 52 *American Journal of International Law* 4 at p. 735. See also Shigeru Oda, ‘Proposals for Revising the Convention on the Continental Shelf’ (1968) 7 *Columbia Journal of Transnational Law* 1 at p. 9.

⁴² UNGA Resolution 2574 A (XXIV) (1969), Preamble. Furthermore, the UN General Assembly went on to adopt another Resolution in 1970 where it declared, *inter alia*, that ‘the seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction [...] as well as the resources of the area, are the common heritage of mankind’. See Resolution 2749 (XXV) (1970) para. 1.

independence, whose priorities in the uses of the seas differed from those of the states which negotiated and ratified the 1958 Convention on the Law of the Sea⁴³. Therefore, a new definition for the continental shelf was inevitable to accommodate and strike a fair balance among the interests of states with narrow continental shelves, states with large continental shelves exceeding 200 nautical miles, states with no access to the sea, and the international community at large⁴⁴. The outcome was the adoption in 1982 of a new comprehensive and codifying convention (LOSC) for the regulation of all uses and activities of the oceans with a part (Part VI) solely devoted to the regime of the continental shelf. The relevant articles spelled out for the latter were, to a large extent, those of the 1958 Convention on the Continental Shelf except those concerning the definition of the continental shelf and establishment of its seaward outer limits (to be discussed in section two below). In addition, a body was to be established under the LOSC to supervise and provide recommendations in relation to the areas where the limits of continental shelf extend beyond 200 nautical miles to ensure that the rights of other states and the Area are not prejudiced (to be discussed in Chapter three below).

Not sure that this qualification is needed :Commented [LS8] here. The Convention not only codified. It also contributed to the progressive development of the L.o.S.

It is always most accurate to use the :Commented [LS9] language of the Convention. You may wish to use the language of Art. 2.1 of Annex II to UNCLOS to describe the Commission's functions (or at least its main function))

In short, the 1958 Convention on the Continental Shelf and the LOSC not only codified the relevant rules of customary international law but they also assisted the progressive development of the law in the sense that they embodied new legal norms. More importantly, the regime of the continental shelf contained in Part VI of the LOSC (Articles 76-85) finally brought the certainty, clarity, and stability that gained the general acceptance of the participant states in UNCLOS III through which an end was brought to the previously existing dilemma and a new era for claiming a continental shelf peacefully and confidently came to light.

2.2. Definition of the Continental Shelf under the LOSC:

As shown in section one above, the definition of the continental shelf has developed over time until it was enshrined in the LOSC in what remains its current definition. As it will

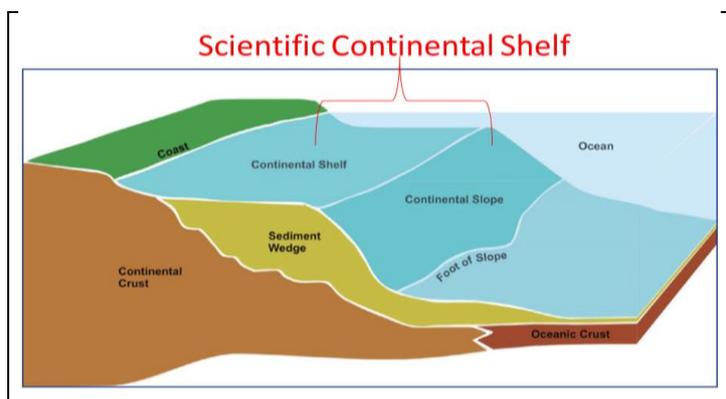
⁴³ See Tullio Treves, 'United Nations Convention on the Law of the Sea' United Nations Audio-visual Library of International Law (http://untreaty.un.org/cod/avl/pdf/ha/uncls/uncls_e.pdf) (2008) at pp. 1-2. Following the failure to include the issue of the continental shelf as part of the agenda of the Second United Nations Conference on the Law of the Sea (UNCLOS II) and upon a strong call from Malta's Ambassador to the UN in 1967 for "an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction", UNCLOS III convened in 1973 and lasted for 9 years till the adoption of the LOSC and its opening for signature on the 10th of December 1982. It is worth noting here that the Sultanate of Oman became a member in the United Nations on the 7th of October 1971; two years or less before UNCLOS III was launched.

⁴⁴ This also paved the way for the introduction of the Exclusive Economic Zone as a new maritime zone.

be illustrated below the LOSC provided a “legal definition” of the continental shelf in legal terms which was based on, but did not coincide with, the scientific definition of continental shelf, which viewed the latter as that part which constitutes the shallow platforms or terraces that surround most of the continents and are terminated seaward by a relatively sharp break in slope, called the shelf edge or shelf break⁴⁵. **Figure 2** illustrates this view.

When quoting use " and not ' :Commented [LS10]

Figure 2: Illustration of the scientific continental shelf



Source: adapted by the author from:

http://www.biyokulule.com/sawiro/sawirada_waaweyn/Continental%20shelf2.jpg [last accessed 19/09/2014]

On the other hand, the LOSC, as a compromising deal, provides a definition by making a distinction between two outer limits of the continental shelf of the same components; one up to a distance of 200 nautical miles while the other beyond the distance of 200 nautical miles. For the purpose of this paper, this section aims to illustrate the definition of the continental shelf as envisaged in the LOSC.

What does "of the same component" mean? :Commented [LS11]

Please note that the difference between scientific and legal continental shelf exists even when the outer limits is beyond 200M. :Commented [LS12]

Reading this sentence somebody not familiar could get the impression that this difference is created by the fact that the drafters of the convention created two legal scenarios: one going up to and the other beyond 200M

The core of the difference, on the other hand, lies in the fact that scientifically speaking "The continental shelf is the relatively flat and shallow (up to 1,200 to 3,500 metres of depth) submerged part of the continent. A thick layer of sediments that may contain hydrocarbon resources usually covers it. The continental shelf extends from the shore to the top of the continental slope." (see the CLCS training manual) Whether or not the 'legal continental shelf' goes up to or beyond 200M, the scientific continental shelf is smaller than the legal one (since the legal one also includes the cont.slope and - if there are sediments - the cont.rise)

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2.2.1. The Continental Shelf up to the Distance of 200 Nautical Miles

⁴⁵ See Francis Shepard, *Submarine Geology* (Harper and Row, 3rd edition, 1973, New York). See also K. O. Emery, 'Geological Limits of the "Continental Shelf"' (1981) 10 *Ocean Development and International Law Journal* 1-2, at pp. 1-11. The departure was attributed to the desire of drafters of the LOSC to elaborate a legal definition of the continental shelf that could address the interests of both states with very large continental shelves and those with small continental shelves. [IT MAY BE USEFUL TO EXPLAIN HOW THIS DEPARTURE MANAGED TO ADDRESS THIS NEED FOR A DEFINITION THAT COULD SATISFY BOTH STATES]

The two criteria of ‘depth of 200 metres’ and ‘exploitability’ used by the 1958 Continental Shelf Convention to establish the outer limits of the continental shelf did not define precisely the actual breadth of the continental shelf of a coastal state. Having noticed that, the drafters of the LOSC came to a conclusion that a precise and flexible definition for the continental shelf applicable at all times cannot be realized without using science. Therefore, Paragraph 1 of Article 76 of the LOSC, by applying an interdisciplinary approach, stipulates that ‘the continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea through the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance’. As an illustration, ‘landmass’ and ‘continental margin’ are scientific (geomorphological) concepts, whose application is subject to different scientific methodologies such as geology, geophysics, and geomorphology, whereas ‘land territory’ and ‘continental shelf’ are legal concepts⁴⁶. The Scientific and Technical Guidelines of the CLCS⁴⁷ reflect this when they stipulate that ‘the Convention makes use of scientific terms in a legal context which at times departs significantly from accepted scientific definitions and terminology’⁴⁸. That being clarified, this section however is going to examine the legal definition of the continental shelf in terms of the first type of its outer limits as provided in the second part of the referred to paragraph.

First of all, it is worth noting that Paragraph 1 of Article 76 of the LOSC reemphasises explicitly that the right for a continental shelf exists *ipso facto* and *ab initio*, by virtue of sovereignty over the land, and as a natural continuation of it into and under the sea. Hence, it is further stressed in the following Article that this right does not depend on occupation, effective or notional, or on any express proclamation⁴⁹. Clearly therefore, Paragraph 1 of Article 76 upholds the principle set by international case law that the ‘land dominates the sea’⁵⁰ and discarded the term ‘submarine areas adjacent to the coast but outside the area of the territorial sea’ used by the 1958 Convention on the Continental Shelf⁵¹. With respect to no proclamation needed though, this is only true whenever the outer limits of the continental shelf of the coastal state do not extend beyond the prescribed limits of 200

⁴⁶ See DOALOS Manual at I-18.

⁴⁷ CLCS/11, Fifth Session, New York, 13 May 1999.

⁴⁸ *Ibid*, Paragraph 1.3.

⁴⁹ Paragraph 3.

⁵⁰ See footnotes no. 26 and 31.

⁵¹ See footnote no. 40.

This sentence may be a little misleading :Commented [LS14] for a reader not familiar with UNCLOS:

The 'reliability' of the definition contained in UNCLOS does not depend on its being rooted in science, but in its inclusion of criteria that are not open-ended.

In 1958 the '200 meter' definition was perfectly reliable. The problem was the fact that the 'exploitability criterion' opened the way for lack of certainty.

In 1982 no 'open-ended' criteria were included in the Convention.

:Commented [LS15]

This is not "explicitly" stated in Art. 76.

These principles, which come from the ICJ case law, are however reflected in the Convention as Art. 77.3 states that "The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation."

Moreover para. 1 of Art. 76 does not contain this principle. That's really in art. 77.3

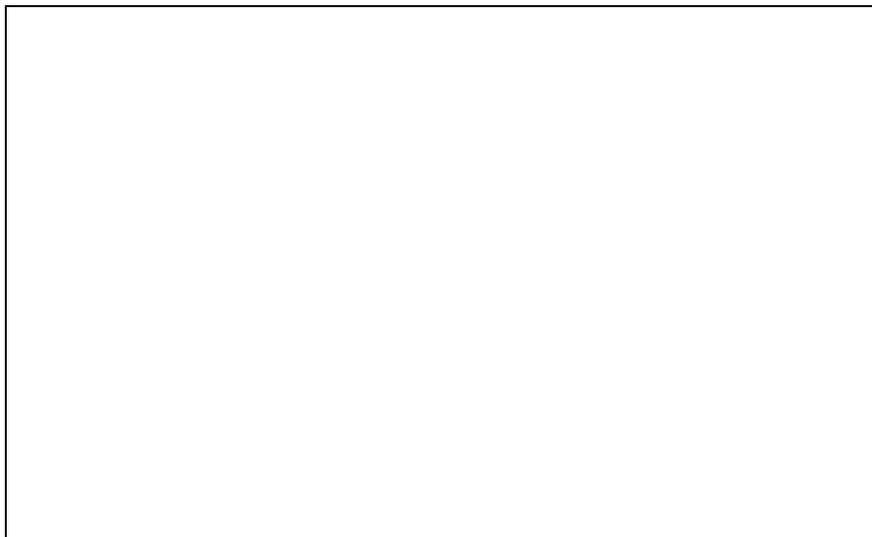
What art. 76.1 contains is the principle that the c.s. is the underwater prolongation of the main land

Reading that sentence the reader not familiar with the Convention may think that "ipso facto and ab initio" is written in the Convention verbatim

nautical miles from the baselines from which the breadth of the territorial sea is measured⁵². In this case, the outer limits of the continental shelf is automatically delineated up to that distance, and coastal states do not have an obligation to submit information on the limits of the continental shelf to the CLCS⁵³. This scenario is illustrated hereinafter in **Figure 3**.

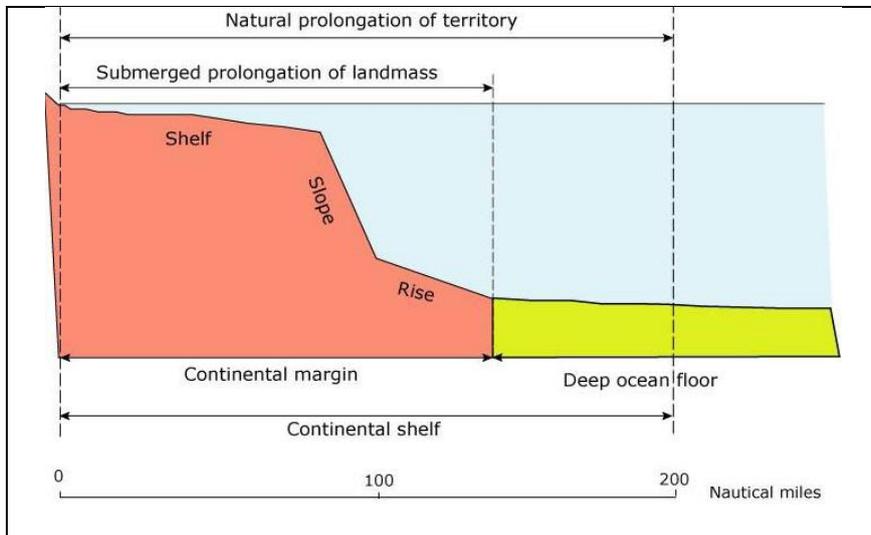
It is very important not to confuse 'making a submission' with 'proclaiming the continental shelf'.
A proclamation has a 'constitutive' nature in the sense that it creates the entitlement. This is not the case for the continental shelf beyond 200 miles.
On the contrary, the entitlement to the c.s. beyond 200M is as 'automatic' as the one to the c.s. up to 200M. A coastal state which has a c.s. beyond 200M is entitled to it without the need to make a submission.
What the submission does is to lead to the identification of an outer limit to the c.s.

Figure 3: The continental shelf up to the distance of 200 nautical miles from the baselines from which the territorial sea is measured.



⁵² It is worth noting here that this thesis assumes, as evident from the Guidelines and number of submissions before the CLCS, that State Parties to the LOSC are under an obligation, according to the LOSC, to make a submission before the CLCS in order to have the outer limits of their continental shelves beyond 200 nautical miles finally established and recognized, and be able to exercise their sovereign rights *erga omnes* attaching to the continental shelf *albeit* there are other views say otherwise and they are not obliged to do so. In this regard, see Andrew Serdy, 'Is there a 400-mile Rule in UNCLOS Article 76 (8)?' (2008) 57 *International and Comparative Law Quarterly* 4 at pp. 945-946.

⁵³ See the Guidelines, Para. 2.2.4.



Source: DOALOS Manual, at page I-19

On this basis, having a continental shelf up to a distance of 200 nautical miles is, pursuant to Paragraph 1 of Article 76, an entitlement for every coastal state regardless of its shape, structure, and width physically, provided however that there is no overlap between it and other maritime zones' entitlements of opposite and adjacent states which will subject it to maritime boundary delimitation. The most interesting maritime zone in this respect is the exclusive economic zone (EEZ) which is defined as well by an outer limit of 200 nautical miles from the baselines⁵⁴. Figure 3 above demonstrates this relationship. Notwithstanding that and in comparison with the continental shelf, the EEZ is not an entitlement *per se* as it has to be proclaimed by the coastal state. Moreover, the rights associated with its seabed and subsoil shall be exercised in accordance with Part VI of the LOSC⁵⁵. Such interplay is, to a significant extent, attributed to the balancing and 'package' nature of the LOSC to meet and accommodate the demands of those states with narrow continental shelves⁵⁶. Regardless of this similarity, the EEZ has no effect on the right of a coastal state for a continental shelf up to the distance of 200 nautical miles. By application of this, Oman, for example, as a coastal state is entitled to a continental shelf up to the distance of 200 nautical miles from the baselines without proclamation and/or providing information to the CLCS but subject to delimitation of overlapping entitlements, if there is any, with opposite and adjacent states.

Also in this case, it is important not to **:Commented [LS17]** confuse 'entitlement' with 'procedure to delineate'.

Also the portion of a c.s. beyond 200M is the object of 'automatic entitlement' like the one up to 200M.

The difference is that in the latter case there's no need to initiate a procedure before the CLCS.

This may give the impression that possible **:Commented [LS18]** overlaps could exist only between State A's continental shelf up to 200M and another states' EEZ.

However it can also be that the potential overlap could be between one state A's continental shelf up to 200M and another states' continental shelf (both if that is up to or beyond 200M)

Therefore it is not accurate to say that the EEZ is the most interesting maritime zone in this respect

unclear **:Commented [LS19]**

⁵⁴ See Article 57 of the LOSC.

⁵⁵ See Article 56 (3) of the LOSC.

⁵⁶ See footnote no. 18.

2.2.2. The Continental Shelf beyond the Distance of 200 Nautical Miles

At the time of negotiating the LOSC, some states⁵⁷ argued, by contrast with their counterparts with narrow continental shelves, that the 200 nautical miles limit is neither applicable to nor reflects accurately the actual size of their continental shelves as they geologically extend more than this limit when measured from the baselines. Yet, the outer limits of those continental shelves were not then accurately identified and this was believed to be detrimental to the legal regime of the high seas, and rights of opposite and adjacent states. Once again, to achieve a fair balance as a package convention acceptable by all states, the LOSC accommodated this position in its definition of the continental shelf in paragraph 1 of Article 76 of the LOSC referred to above by stating that such coastal states have the right to a continental shelf, through the natural prolongation of their land territories beyond the territorial sea, to ‘the outer edge of the continental margin’⁵⁸. Unlike the continental shelf up to the distance of 200 nautical miles discussed above and other legal maritime zones established by the LOSC whose breadth is based on a ‘distance criterion’, the extent of this continental shelf is not uniform and varies from one state to another depending on the new criterion of the ‘continental margin’. The key question was therefore to find instead uniform rules, through this new criterion, to be applicable on equal footing on all coastal states that are entitled to continental shelves beyond the distance of 200 nautical miles from the baselines.

By taking lessons from the past, the LOSC did not leave this issue indefinite or to states’ unpredictable and unilateral application. Therefore, Article 76 of the LOSC, in a logical order, goes on to set forth that ‘the continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 and 6’⁵⁹. Before identifying these limits, it first defines the ‘continental margin’ as comprising ‘the submerged prolongation of the landmass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof’⁶⁰. Briefly, it states, by using geological terms in a legal language, that the

Why? It may be useful to :Commented [LS20] explain, at least in a footnote

⁵⁷ Examples of these states are Australia, Canada, France, Argentina, the former Soviet Union and the USA.

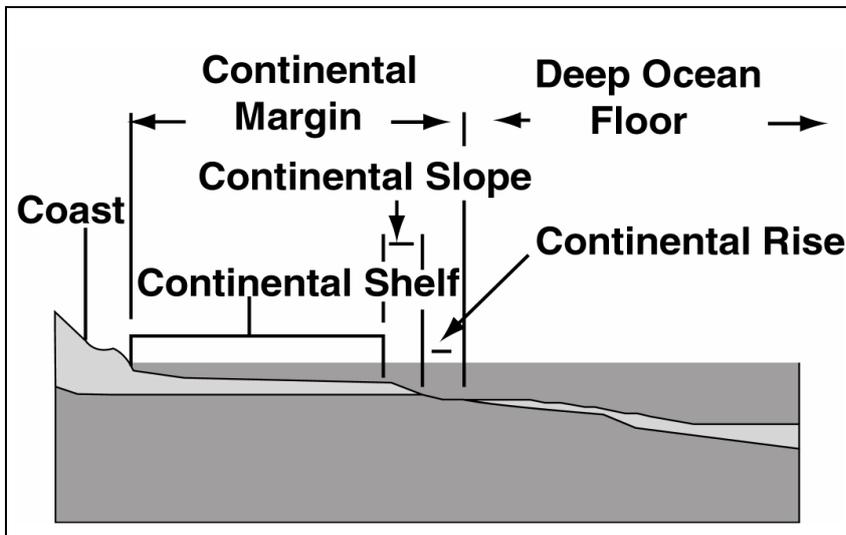
⁵⁸ See M.W. Lodge, ‘The International Seabed Authority-Its Future Directions’ in M.H.Nordquist, J. Norton Moore and T.H. Heidar (eds.), *Legal and Scientific Aspects of Continental Shelf Limits* (Leiden, Martinus Nijhoff Publishers, 2004) at p. 403. The drafters of LOSC recognized that all problems concerning oceans are closely related and should be dealt with in a cohesive and holistic manner. See the Preamble.

⁵⁹ Paragraph 2.

⁶⁰ Paragraph 3.

components of continental margin determine the extent of the continental shelf. It is therefore not the shelf alone that constitutes the latter as conceived by the scientific community in **Figure 2** above but the slope and the rise too as shown in **Figure 4** below, which became to be known as the ‘legal continental shelf’.

Figure 4: The components of the continental margin that determine the extent of the continental shelf (shelf, slope and rise)



Source: DOALOS Manual, at page I-12

Consequently, any coastal state has the right to a continental shelf beyond the distance of 200 nautical miles if its continental margin goes beyond this distance⁶¹. To do so however, and for the purpose of establishing the outer limits of its continental shelf precisely, it has to apply the formulas contained in paragraph 4 (a) (i) and (ii), subject to paragraphs 5 and 6, by establishing either a line delineated in accordance with paragraph 7⁶² by reference to the

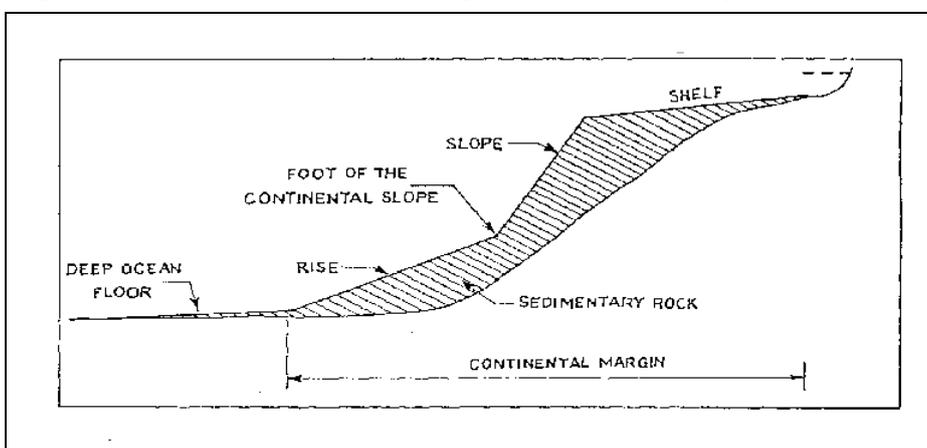
⁶¹ See Paragraph 4 (a) of Article 76. Paragraph 2.1.2. of the Guidelines also provides that Paragraph 4 (a) of Article 76 suggests, as a starting point, ‘the formulation of a test of appurtenance in order to entitle a coastal State to extend the outer limits of the continental margin beyond the limit set by the 200-nautical-mile distance criterion. This test consists in the demonstration of the fact that the natural prolongation of its land territory to the outer edge of the continental margin extends beyond a line delineated at a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured’. It is designed to determine the legal entitlement of a coastal State to delineate the outer limits of its continental shelf by means of the application of the complex set of rules described in paragraphs 4 to 10 of Article 76 of the LOSC. See Article 2.2. of the Guidelines.

⁶² Paragraph 7 provides that ‘The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is

outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope (known also as the Irish or Gardiner formula); or a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope (known also as the Hedberg formula). Both formulas take as a reference point the foot of the continental slope (FOS), i.e. the point of maximum change in the gradient at the base of the slope unless there is evidence to the contrary⁶³. **Figure 5** illustrates the location of the foot of the continental slope in the continental margin.

It would be important to note somewhere :Commented [LS23] that there may be an exception to this criterion based on the Statement of Understanding Concerning a Specific Method to Be Used in Establishing the Outer Edge of the Continental Margin (Annex II, Final Act of the Third United Nations Conference on the Law of the Sea).

Figure 5: The location of the foot of the slope in the continental margin



Source: TALOS, at Appendix 1-9

The fixed points comprising the two lines drawn, however, shall not exceed the constraint lines drawn either at 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or at 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres⁶⁴. In the case of submarine ridges the latter constraint cannot be applied⁶⁵. At this point, the coastal state has all the elements necessary to delineate, pursuant to Paragraph 7, the outer limits of the continental shelf by taking the inner envelope of the outer envelopes of the formula and constraint lines⁶⁶. **Figure 6** illustrates this

measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude’.

⁶³ See Paragraph 4 (b) of Article 76.

⁶⁴ See Paragraph 5 of Article 76. This is also referred to as the ‘two constraints formula’.

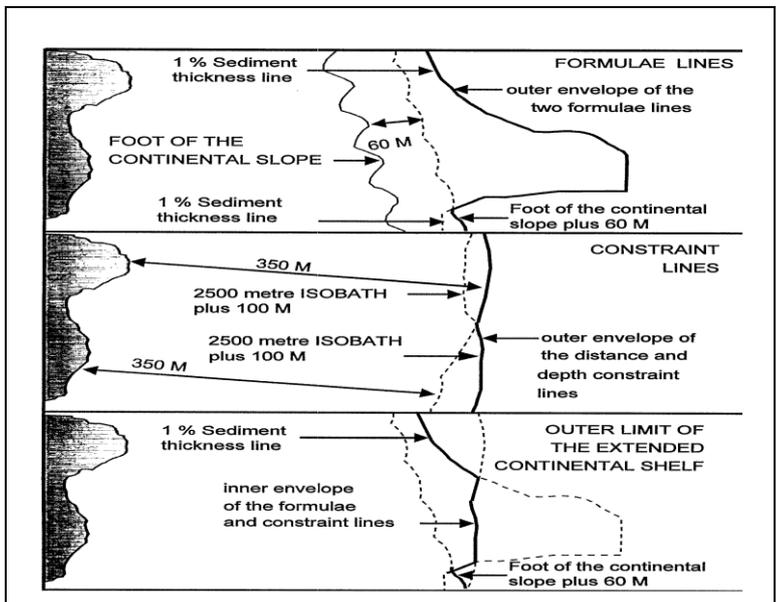
⁶⁵ See Paragraph 6 of Article 76. On the other hand, this constraint shall apply to submarine elevations as they are natural components of the continental margin, such as its plateaux, caps, banks, and spurs. *Ibid.*

⁶⁶ See Paragraph 2.3.3. (iii) of the Guidelines.

process of delineating the outer limits of the continental shelf according to paragraphs 4 – 7 of Article 76, whereas **figure 7** demonstrates the definition of the continental shelf beyond the distance of 200 nautical miles, as delineated by this process, more clearly in a detailed diagram.

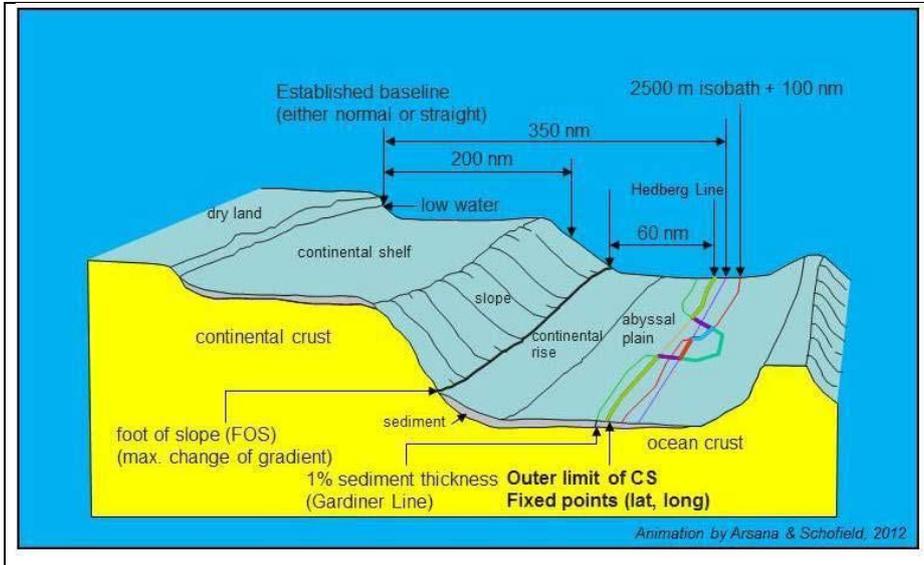
This may give the impression that the 2 : **Commented [LS24]** figures illustrate two different things, whereas they both refer to the same process of delineation of the outer limits of the c.s. beyond 200M, but in one case it's a step by step process in the second case it's the final outcome of the process.

Figure 6: Delineation of the outer limits of the continental shelf beyond the distance of 200 nautical miles according to paragraphs 4 – 7 of Article 76 of the LOSC.



Source: the Guidelines, at page 22

Figure 7: Definition of the outer limits of the continental shelf beyond the distance of 200 nautical miles



Source: TALOS, at page 5-18

By application of this process any coastal state will be able to establish whether the outer limit of its continental shelf is of the type that is up to the distance of 200 nautical miles or of the type that extends beyond the distance of 200 nautical miles. This depends, as illustrated above, on the 'continental margin' criterion. Basically, as the continental shelf is a legal concept whereas the continental margin is scientific, the former can be wider or narrower than the continental margin. On this basis, and in light of these two alternative outer limits, State Parties to the LOSC will be able to determine if the outer limits of their continental shelves requires a submission of information to the CLCS or not.

2.3. Concluding Remarks

State practice, international case law, and treaty law have all contributed, to various degrees, to the development of the concept of the continental shelf. However, its definition remained uncertain and lacked universality until it was eventually codified by the LOSC which, by striking a fair balance between the interests of all parties concerned, put it

This gives the impression that what is **Commented [LS25]** described above is the so called 'test of appurtenance'.

On the contrary what is described above is the entire process of delineation of the outer limits of the c.s. beyond 200M.

If you intended to described the 'test of appurtenance' then the procedure is simpler: steps 1 and 2 (i.e. identification of the two formulae lines) is followed by comparing the outer envelop of these two lines (i.e. the formulae line) against the 200 Miles line. If the former, at least partial, lie seaward of the 200M, then the test is satisfied (and the state can therefore proceed with preparing a submission to the CLCS). Otherwise it is not satisfied

Since I believe that you intended to describe the 'test of appurtenance' at this stage, then there' no need to include the 'constraints line' here

However this means that after dissociating the constraints from the 'test of appurtenance' you would still need to describe later the constraints. But conceptually these are separate from the test of appurtenance

successfully in a generally acceptable legal framework. The latter is Part VI of the former which defines the concept of the continental shelf and its outer limits precisely. In short, it establishes that a coastal state's right to a continental shelf is inherent as a natural prolongation of its territory into the sea which can extend automatically up to the distance of 200 nautical miles **without proclamation**, or beyond if the outer limits of the continental margin successfully meets the conditions or criteria provided by Article 76, subject to information being submitted to the CLCS and its recommendations on those limits in return. The practice of coastal states and the CLCS that will contribute to further develop this regime by applying the complex criteria of article 76 to the diverse geomorphological realities of coastal States.

See earlier comment on :**Commented [LS26]**
'proclamation' vs. delimitation'

3. The Submission Process

3.0. Introductory Remarks

At UNCLOS III, States faced the question: should each coastal state have the right to establish the outer limits of the continental shelf beyond 200 nautical miles unilaterally, or should there be some international oversight of outer limits lines and what is the best way to do it? This did not mean that states with 200 nautical miles continental shelves would not be

obliged to delineate precisely the outer limits of these continental shelves too. However, as the former would probably, if left unchecked, encroach excessively on the Area, and infringe the rights of landlocked and geographically disadvantaged states, and of opposite and adjacent states, establishing a mechanism to scrutinize coastal states' delineation of the outer limits of their continental shelves beyond 200 nautical miles was argued for to avoid going to square one and repeating the mistakes of the past. Therefore, in addition to prescribing the process of delineating the outer limits as illustrated in chapter two, a body was established under the LOSC to verify and ensure the correct application of the delineation formulae and constraints as envisaged in Article 76 by its States Parties⁶⁷. That is the Commission on the Limits of the Continental Shelf (CLCS) before which States Parties to the LOSC, through a submission, establish definitely and precisely the outer limits of their continental shelves beyond 200 nautical miles. Having said that and in light of its role *vis-a-vis* each State Party's submission, the following chapter aims to examine this important body in terms of membership, structure and role as well as the submission process brought before it by States Parties to the LOSC, and the benefits and costs arising from that process on these states.

3.1. The CLCS

3.1.1. Membership and Structure

In addition to the CLCS, the LOSC established two other bodies to assist in the application and implementation of its provisions; the first one is the International Seabed Authority (ISA)⁶⁸ whereas the other is the International Tribunal for the Law of the Sea (ITLOS)⁶⁹. But unlike them, the LOSC does not spell out the rules that govern the work of the CLCS. Furthermore, it does not establish a secretariat to facilitate discharging its responsibilities. The provision of secretariat services has been assigned to the Secretary General of the UN, who discharges this function through the Division of Ocean Affairs and the Law of the Sea (DOALOS) of the Office of Legal Affairs⁷¹. In addition, the sessions of the CLCS and its sub-commissions are held at United Nations Headquarters in New York⁷².

⁶⁷ See Article 1 of Annex II to the LOSC which states that 'in accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following article'. To establish the CLCS was firstly proposed by the United States of America at UNCLOS III. See Proposal of the United States on the Definition and Limits of the Continental Shelf, 3 May 1975, *Third United Nations Conference on the Law of the Sea*, Documents of the Second Committee, Document A/CONF.62/C.2/L.99, Official Records, Vol. XI, at p. 500.

⁶⁸ See Section 4 of Part XI of the LOSC.

⁶⁹ See Annex VI to the LOSC.

⁷¹ See Article 2 (5) of Annex II to the LOSC & Rule 16 of the Rules of Procedure of the CLCS, CLCS/40/Rev.1, Twenty First Session, New York, 17 April 2008. The Secretary General of the UN exercises also the function of providing secretariat services to the Meetings of State Parties (SPLOS) that take place in

An additional aspect is the fact that :Commented [LS27] whereas the 200M line can be delineated in way that was relatively simply, and easy to verify by other States.

On the contrary the complex criteria for the limits beyond 200M would be more complex and therefore it would be more difficult to verify whether a State applied them correctly.

In addition: the idea of a mechanism of verification was directly linked to the idea that outer limits established on the basis of the recommendations of the CLCS are 'final and binding'. And this characteristic would be important to ensure certainty to the shape and extent of the international seabed area

It's always best to use the exact language :Commented [LS28] of the Convention.

To describe the functions of the Convention please see Annex II to the Convention - art. 2.3

This section does not seem to fall under :Commented [LS29] the header 'membership and structure'

Maybe a subheader called "introduction" could be added?

Not very accurate and probably not very :Commented [LS30] useful. Suggest deletion

As further evidence of the technical nature of Article 76 of the LOSC, the CLCS shall, as envisaged by Article 2 of Annex II to the LOSC, ‘consist of 21 members who shall be experts in the field of geology, geophysics or hydrography’⁷³. It is ‘the only technical and scientific commission of its kind that is established by a multilateral convention’⁷⁴ and without it ‘the implementation of Article 76 would have posed technical and scientific difficulties for coastal States that did not possess sufficient and appropriate technology and scientific capabilities’⁷⁵. The CLCS was established in 1997, following the LOSC’s entry into force on the 16th of November 1994, whereas the second, third and the fourth (current) memberships were elected in 2002, 2007, and 2012 respectively⁷⁶. Therefore, the term of service is five years⁷⁷. The members shall be ‘elected by States Parties to the LOSC from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities’⁷⁸. ‘At least three months before the date of each election, the Secretary General of the UN shall address a letter to the States Parties, inviting the submissions of nominations, after appropriate regional consultations, within three months, and shall prepare a list in alphabetical order of all persons thus nominated and submit it to all States Parties’⁷⁹. The persons elected to the CLCS shall be those nominees who obtain a two-thirds majority of the votes of the representatives of States Parties present and voting at a meeting of States Parties convened by the Secretary General of the UN at the UN headquarters for this purpose⁸⁰. Of the 21 members, not less than three shall be elected from each geographical region⁸¹. These regions are Africa, Asia, Eastern

The reader may wonder why it took three :Commented [LS31] years. You may wish to explain the reason behind the lag

This should come after where :Commented [LS32] you explain the fact taht the term of service is 5 .years

From a logical flow perspective it is the duration of the term of service that establishes when the elections take place and not viceversa

If you use quotation marks like :Commented [LS33] you do here you should quote the exact language. UN therefore should be written in extenso

Again: it is preferable to use exact :Commented [LS34] quotations of the provisions of the Commission. For instance, the provision you recall in this footnote does not include the words "For this purpose"

accordance with the LOSC. See Article 319 (2) (e) of the LOSC. It can be said also, in light of the secretariat services it provides to the CLCS, that the secretariat acts as an interface between the submitting State and the CLCS.

⁷² This is in pursuance of Rule 4 of the ROP. The Secretary General also shall ensure the safe custody of the submission of every state and the attachments and annexes thereto at the UN Headquarters in New York until such time as they are required by the CLCS. See Annex II (1) to the ROP. Despite that, the Chairperson of the CLCS reiterated in 2009 the possibility to establish a dedicated and permanent secretariat to service the CLCS. See Item 28 (121) of the Statement made by the Chairman of the CLCS on the progress of work in the CLCS, CLCS/64, Twenty-fourth session, New York, 10 August – 11 September 2009.

⁷³ This is obvious from the curricula vitae of the (current) members which are available on the CLCS website at: http://www.un.org/depts/los/clcs_new/commission_members.htm#Members [Last accessed 21/08/2014]. Considering the roles of the CLCS, its members might come as well from other disciplines such as geography and geodesy.

⁷⁴ See footnote no. 70 at p. 75.

⁷⁵ See footnote 70 at p. 78.

⁷⁶ See Membership of the Commission from 1997 to 2007, CLCS, available online at: http://www.un.org/depts/los/clcs_new/commission_members_1997_2012.htm [last accessed 22/08/2014].

⁷⁷ See also Article 2 (4) of Annex II to the LOSC which states that ‘The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election’.

⁷⁸ See Article 2 (1) of Annex II to the LOSC. See also Article 76 (8) of the LOSC.

⁷⁹ See Article 2 (2) of Annex II to the LOSC.

⁸⁰ See Article 2 (3) of Annex II to the LOSC.

⁸¹ See Article 2 (3) of Annex II to the LOSC.

Europe, Latin America, and Western Europe and Others⁸². **Table 3** shows the names and nationalities of the current members of the CLCS who were elected for the period from 2012 to 2017⁸³.

Table 3: Current members of the CLCS and their nationalities

| MEMBERS OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF | |
|--|---|
| 2012-2017 | |
| <u>Name</u> | <u>Nationality</u> |
| Arshad, Muhammad | (Pakistan) |
| Awosika, Lawrence Folajimi | (Nigeria) |
| Carrera Hurtado, Galo | (Mexico) |
| Charles, Francis L. | (Trinidad and Tobago) |
| Glumov, Ivan F. | (Russian Federation) |
| Haworth, Richard Thomas | (Canada and United Kingdom of Great Britain and Northern Ireland) |
| Heinesen, Martin Vang | (Denmark) |
| Jaoshvili, George | (Georgia) |
| Kalngui, Emmanuel | (Cameroon) |
| Lu, Wenzheng | (China) |
| Madon, Mazlan Bin | (Malaysia) |
| Mahanjane, Estevao Stefane | (Mozambique) |
| Marques, Jair Alberto Ribas | (Brazil) |
| Njuguna, Simon | (Kenya) |
| Oduro, Isaac Owusu | (Ghana) |
| Park, Yong Ahn | (Republic of Korea) |
| Paterlini, Carlos Marcelo | (Argentina) |
| Ravindra, Rasik ¹ | (India) |

⁸² However, this distribution of seats was questioned at the 17th SPLOS by some States Parties from the Asian and African groups due to an increased number of parties to the LOSC from these two continents. As a result, a decision was reached to give these two groups six and five seats to be occupied alternatively between them. **[YOU MAY WISH TO ADD REFERENCE TO THE RELEVANT DOCUMENT OF THE MEETING OF STATES PARTIES WHICH REFLECT THIS ARRANGEMENT - SPLOS/2011]**

⁸³ Nineteen of the current members were elected by the 22nd SPLOS on the 6th and 7th of June 2012. Mr. Szymon Uscinowicz (Poland) was elected on the 19th of December 2012. Mr. Ravindra (India), on the other hand and by application of Rule 8 of the ROP, was elected at the 24th SPLOS to fill the vacancy due to the resignation of Mr. Sivaramakrishnan (India), who was elected at the 22nd SPLOS referred to above. *See* Members of the Commission, CLCS, available online at: http://www.un.org/depts/los/clcs_new/commission_members.htm#Members [last accessed on 22/08/2014]

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| | |
|--------------------|---------------|
| Roest, Walter R. | (Netherlands) |
| Urabe, Tetsuro | (Japan) |
| Uścińowicz, Szymon | (Poland) |

Source: The CLCS, Members of the Commission at:

http://www.un.org/depts/los/clcs_new/commission_members.htm#Members [last accessed 22/08/2014]

Despite the fact that the members shall serve in their personal capacities⁸⁴ and seek or receive no instructions from any government or from any authority external to the CLCS⁸⁵, the State Party which submitted the nomination of one of the members shall defray the expenses of that member while in performance of the **commission duties**⁸⁶. This as a result might cause some implications. For instance, nominating someone and paying his or her expenses might create a way of putting influence on the nominee by the nominator particularly if the former used to be an employee of the latter. This relationship *per se* made the CLCS to be described as ‘a technical body in a political world’⁸⁷ and triggered calls for ‘new accountability mechanisms for the CLCS’⁸⁸. Conversely, the nominating state might, as repeatedly announced by the Chairperson of the CLCS⁸⁹, fail to cover these expenses including medical coverage which consequently lead to the inability of the member specifically and the CLCS generally to perform their duties expeditiously and efficiently. As regards the first implication however, it is clearly established that in addition to making a solemn declaration, before assuming duties, to perform the duties honourably, faithfully, impartially and conscientiously⁹⁰, the member nominated by a particular state shall not be a member of the sub-commission dealing with the submission of that state and the submission

You may wish to recall that in the **:Commented [LS35]** performance of ‘advisory functions’ this does not hold true: this is in the same provision of Annex II

⁸⁴ See footnote 78.

⁸⁵ See Rule 11 of Annex II to the LOSC. They also shall refrain from any action which might reflect negatively on their position as members of the CLCS. *Ibid.*

⁸⁶ See Article 2 (5) of Annex II to the LOSC and Rule 9 (a) of the ROP.

⁸⁷ See Ted L. McDorman, ‘The Role of the Commission on the Limits of the Continental Shelf: A Technical Body in a Political World’ (2002) 17 *The International Journal of Marine and Coastal Law* 3 at pp. 311-313.

⁸⁸ See Anna Cavnar, ‘Accountability and the Commission on the Limits of the Continental Shelf: Deciding who Owns the Ocean Floor’ (2009) 42 *Cornell International Law Journal* at pp. 412-435.

⁸⁹ See, for example, Item 4 of the Statement by the Chair on the Progress of Work in the CLCS, CLCS/83, Thirty-fourth session, New York, 27 January – 14 March 2014 at p. 4 & Letter dated 14 April 2014 from the Chair of the CLCS addressed to the President of the twenty-fourth SPLOS, SPLOS/270, 14 April 2014, paragraphs 12-26 and its Annex. Due to this issue and upon a request from the Chairperson, the UN General Assembly, in October 2000, at its 55th session, by Resolution 55/7, requested the Secretary General to establish a voluntary fund for the purpose of defraying the cost of participation of the members of the CLCS from developing States. However, the trust fund did not solve the problem fully as evident from the statement and letter of the Chairperson in 2014 referred to above, and extended to include even members from developed States. The latest decision taken in this respect as of 27th of August 2014 is the decision regarding the conditions of service of the members of the CLCS, SPLOS/276, at the Twenty Fourth Meeting of States Parties to the LOSC, New York, 9-13 June 2014 which called upon both nominating States and other States to ensure the full participation of all members by defraying their expenses.

⁹⁰ See Rule 10 of the ROP.

of a state he/she has assisted by providing scientific and technical advice with respect to the delineation of the outer limits of its continental shelf beyond 200 nautical miles⁹¹. This leads us to the internal structure of the CLCS through which most of the examination of submissions takes place.

The CLCS shall, unless it decides otherwise, 'function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal state'⁹². Three sub-commissions shall, unless the Commission decided otherwise, function simultaneously while considering submissions⁹³ and any member of the CLCS 'can be appointed to be a member of more than one sub-commission'⁹⁴ which 'shall extend from the time of the sub-commission's appointment to the time that the submitting State deposits, in accordance with Article 76, paragraph 9 of the LOSC, the charts and relevant information regarding the outer limits of the continental shelf for which the submission was originally made'⁹⁵. However, the CLCS, at its thirty-second session, due to the growing workload and submissions, decided to hold, in 2014 just as in 2013, three sessions of seven weeks each, including plenary meetings, for a total of 21 weeks of meetings of the CLCS and its sub-commissions, as well as adopting new working arrangements for its sub-commissions⁹⁶. At its thirty-fourth session, the CLCS established new sub-commissions, bringing to nine the total number of active sub-commissions⁹⁷. Apparently, owing to considerable working pressure, this might responsively and eventually lead to a full time CLCS or to an increase of its annual working sessions or probably to a reduction in the number of members in each sub-commission⁹⁸.

You may wish to add the decision taken :Commented [LS36] on this point at the 37th session

These measures could be adopted. But :Commented [LS37] this would not be a consequence of the decision of the CLCS to work 21 weeks a year

⁹¹ See Article 5 of Annex II to the LOSC and Rule 42 (1) (a) of the ROP. This also applies if any member of the CLCS may, for other reasons, be perceived to have a conflict of interest regarding the submission, e.g., members are nationals of a state which may have a dispute or unresolved border with the coastal State. See Rule 42 (1) (b) of the ROP. Despite that, all members of the CLCS 'have the right to participate as members in the proceedings of the CLCS concerning any submission' and may be invited, by prior consultation and agreement within the sub-commission, 'to participate in the proceedings of the sub-commission on specific issues concerning a particular submission without the right to vote'. See Article 5 of Annex II to the LOSC, Rule 42 (3) of the ROP and Annex III (10) (2) to the ROP.

⁹² See Article 5 of Annex II to the LOSC and Rule 42 (1) (c) & (d) of the ROP. It is stated as well that the Rules of Procedure of the CLCS 'apply *mutatis mutandis* to the conduct of business of the sub-commissions and other subsidiary bodies'. See Rule 44 (2) of the ROP.

⁹³ See Rule 51 (4 bis) of the ROP.

⁹⁴ See Rule 42 (3) of the ROP.

⁹⁵ See Rule 42 (2) of the ROP.

⁹⁶ See Statement by the Chair on the progress of work in the CLCS, CLCS/80, thirty-second session, New York, 15 July – 30 August 2013, Item 17 (88-89).

⁹⁷ See Statement by the Chair on the progress of work in the CLCS, CLCS/83, thirty-fourth session, New York, 27 January-14 March 2014, Item 19 (92).

⁹⁸ It is noteworthy here that an Open-Ended Working Group has been established by the twenty-third Meeting of States Parties to consider the conditions of service of the members of the CLCS, which has been reporting to the Meetings of States Parties about this issue and how to address it ever since. See SPLOS/263, paragraph 77. Moreover, the burden of the CLCS workload extends *by de facto* to DOALOS since it is the provider of

In addition to the sub-commissions, the CLCS ‘may establish such other subsidiary bodies composed of its members as may be required for the effective performance of its functions’⁹⁹. At the time of writing, the CLCS has established four subsidiary bodies; (a) Committee on confidentiality, (b) Committee on provision of scientific and technical advice to coastal states, (c) Editorial Committee, (d) Training Committee¹⁰⁰. The Rules that apply to the conduct of business of these subsidiary bodies are those of the CLCS and its sub-commissions¹⁰¹. The CLCS may also cooperate, to the extent considered necessary and useful, with other competent organizations which might be of assistance in discharging its responsibilities¹⁰² and/or consult specialists in any field relevant to its work¹⁰³. In terms of immunities and privileges, the CLCS members, by established precedent in respect of similar treaty organs, are considered as ‘experts on missions’ covered by Article VI of the General Convention on the Privileges and Immunities of the United Nations¹⁰⁴.

If you look at the Statements of the Chair :Commented [LS38] there have been a number of 'ad hoc' working groups also

3.1.2. Role and Functions

Unlike prescribing the process of delineating the outer limits of the continental shelf beyond 200 nautical miles, Article 76 of the LOSC does not provide much detail in relation to the functions or mandate of the CLCS. It only stipulates that ‘the Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding’¹⁰⁵. Annex II to the LOSC contains more detailed provisions albeit not to the extent of covering the organization of the CLCS’s daily work which is regulated by its own Rules of Procedure as is the case of most international bodies. In particular, Article 3 of Annex II to the LOSC provides that ‘the functions of the Commission shall be:

secretariat services to the CLCS which complicates the problem further. Currently, the CLCS is permitted, pursuant to Article 9 (2) of Annex III (Modus Operandi) to the ROP, to assign further work to its members during inter-sessional periods. However, this is subject to the approval of the coastal state due to confidentiality of the information submitted.

⁹⁹ See Rule 43 of the ROP.

¹⁰⁰ See the CLCS, Subsidiary Bodies, available online at:

[http://www.un.org/depts/los/clcs_new/commission_members.htm#Subsidiary bodies](http://www.un.org/depts/los/clcs_new/commission_members.htm#Subsidiary%20bodies): [Last accessed 28/08/2014].

¹⁰¹ See Rule 44 (2) of the ROP.

¹⁰² See Article 3 (2) of Annex II to the LOSC. Examples of these organizations are the Intergovernmental Oceanographic Commission of UNESCO, and the International Hydrographic Organization. *Ibid*.

¹⁰³ See Rule 57 of the ROP.

¹⁰⁴ See Letter dated 11 March 1998 from the Legal Counsel, Under-Secretary-General of the UN for Legal Affairs, addressed to the CLCS, CLCS/5, 11 March 1998, available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/062/67/PDF/N9806267.pdf?OpenElement> [last accessed 28/08/2014].

¹⁰⁵ See Paragraph 8.

- (a) to consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with Article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;
- (b) to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (a)¹⁰⁶.

To fulfil these two functions, the CLCS is also guided by the Scientific and Technical Guidelines, and its Rules of Procedure. It is apparent from its mandate that the CLCS acts as a reference body for coastal States' submissions to establish finally and clearly the outer limits of the continental shelf beyond 200 nautical miles, or as a 'legitimator' as described by some writers¹⁰⁷. Such a role is a result of the 'delicate package deal' of the LOSC which, as mentioned above, aims to create certainty and precision to the limits of the continental shelf that extend beyond 200 nautical miles from the baselines. Notwithstanding that, there are a few points, *inter alia*, that can be realized from the two functions conferred to the CLCS above. First, its primary role is 'to consider data and other material'. Clearly therefore, establishing the outer limits of the continental shelf beyond 200 nautical miles rests with the coastal state on which the CLCS exercises its role by verifying whether this coastal state has established the outer limits correctly in accordance with Article 76 or not. Basically, it is a means to assist coastal states in defining the outer limits of their continental shelves beyond 200 nautical miles precisely and peacefully. Using the term 'to consider' rather than 'to decide' also indicates that the review of submissions is of a collaborative nature rather than adversarial. This is further evident from allowing coastal states to provide clarification and further information during the interaction with the CLCS¹⁰⁸ as well as to make a revised submission if not satisfied with the CLCS's recommendations¹⁰⁹. However, this might have a

¹⁰⁶ See Paragraph 1.

¹⁰⁷ See footnote no. 87 at pp.319-320. McDorman in his article argues that the nature of the functions of the CLCS, as provided under Article 76 and Annex II to the LOSC, is merely 'procedural' and 'informational', and the recommendations it provides do not entail any binding force either on the submitting State or on other states as a whole.

¹⁰⁸ See Paragraphs 6 and 10 (1) of Annex III (Modus Operandi) to the ROP and Annex II-bis to the ROP.

¹⁰⁹ See Article 8 of Annex II to the LOSC which states that 'in the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall within a reasonable time, make a revised or new submission to the Commission'. See also Rule 53 (4) of the ROP. See also letter dated 25 August 2005 from the Legal Counsel, Undersecretary-General of the UN for Legal Affairs, addressed to the Chairman of the CLCS, CLCS/46, Sixteenth session, 7 September 2005. Examples of states that have made revised submissions are the Russian Federation on 28 February 2013 in respect of the Okhotsk Sea, and Barbados on 25 July 2011. See **table 1** above.

negative impact by making the submission as an open-ended process between the coastal state and the CLCS.

Second, the ‘data and other material’ submitted to the CLCS to consider shall be from the coastal state only. This is attributed to the fact, as illustrated in section 2 of chapter two, that the coastal state’s right to a continental shelf exists as an entitlement *via* the natural prolongation of its land territory into and under the sea. It does not ‘depend on occupation, effective or notional, or on any express proclamation’. Therefore, the CLCS, in this respect, does not act as a court where other concerned stakeholders such as adjacent and opposite states, and the ISA, can ask for an intervention even though their rights under the LOSC might be at stake. Furthermore, it is emphasised that the coastal state’s rights over the continental shelf are exclusive and no one may undertake any relevant activity on its continental shelf without its express consent¹¹⁰. On this basis, the CLCS’s role is confined to consider the data and other material submitted by the coastal state only. In other words, these ‘data and other material’ are the ‘submission’ of the coastal state which contains the scientific evidences, as laid down in accordance with Article 76 of the LOSC, of the outer limits of its continental shelf beyond 200 nautical miles.

Third, the CLCS shall consider the ‘data and other material’ submitted by the coastal state concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles only. If the limits are up to or less than 200 nautical miles, the coastal state is not obliged to submit ‘data and other material’ before the CLCS and is entitled to the continental shelf in this case, and as shown in section 2 of chapter two, automatically. By the same token, the CLCS has no mandate or duty to review any submission of a continental shelf if its outer limits do not exceed 200 nautical miles from the baselines. For this purpose, the CLCS begins its examination of submissions by ensuring first that the submitting state has positively and successfully satisfied the ‘test of appurtenance’ to be entitled to extend the outer limits of its continental shelf beyond 200 nautical miles from the baselines¹¹¹.

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In this connection, maybe in a footnote, **:Commented [LS39]** however, it should be recalled that other States may have at least one role: that of addressing comments based on the Executive Summary of a submission, and this may lead to a decision to defer the examination of that submission if it becomes evident that there’s a dispute

¹¹⁰ See Article 77 (1) of the LOSC.

¹¹¹ See Paragraph 5 (1) (a) of Annex III (Modus Operandi) to the ROP. See also footnote no. 61.

Fourth, the CLCS and its sub-commissions shall consider the data and other material submitted by the coastal state and make recommendations in accordance with Article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea. The latter two therefore constitute the mirror against which the CLCS reviews submissions. Article 76 lays down, as illustrated above in section 2 of chapter two, the process of delineation of the outer limits of the continental shelf beyond 200 nautical miles whereas the Statement of Understanding of 1980 embodies a request to the CLCS to use a specific method in establishing the outer edge of the continental margin of these states in the southern part of the Bay of Bengal¹¹². Consequently, the CLCS is tasked with applying the provisions of Article 76 and the Statement only, so it may not go further, as in case law, by developing other rules than those envisaged thereto. It may not also interpret the provisions differently as contained therein. Nevertheless, the CLCS, as mentioned above, is also guided by its Rules of Procedure and the Guidelines in exercising its functions. Despite that, the latter is not binding on coastal states when preparing their submissions and they can use other scientific and technical methodologies to implement the provisions of Article 76¹¹³. Generally speaking, such restriction has both negative and positive implications. On one side, it ties the hand of the CLCS from developing progressive rules on the basis of its findings, as it moves forward, in one submission to apply them to another as well as from moving in parallel with the developments occurring at the level of scientific knowledge of oceans. On the other side, it allows coastal states to understand clearly how the CLCS and its sub-commissions review submissions, and accordingly they prepare their submissions. **Appendices 2 and 3** illustrate how the CLCS and its sub-commissions preliminarily analyse the ‘data and other material’ in accordance with Article 76, and how they examine them scientifically and technically based on the Guidelines. An important additional feature to this point is that using the term ‘recommendations’ rather than ‘decisions’ indicates that the outcome of considering the data and other material by the CLCS is merely of a persuasive nature and its application is left to the desire of the coastal state. Nonetheless, it is explicitly emphasised in Article 76 that ‘the limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding’¹¹⁴, and

You may wish to note here that according to some States the Bengal rule can apply also in other parts of the world which meet the criteria described in the statement of understanding

¹¹² See the Final Act of UNCLOS III, Annex II, available online at: http://www.un.org/depts/los/clcs_new/documents/final_act_annex_two.htm [last accessed 03/09/2014]. Due to the mathematical average of the thickness of sedimentary rock in the southern part of the Bay of Bengal, the States there, by the Statement, are allowed, ‘notwithstanding the provisions of Article 76 of the LOSC, to establish the outer edge of its continental margin by straight lines not exceeding 60 nautical miles in length connecting fixed points, defined by latitude and longitude, at each of which the thickness of sedimentary rock is not less than 1 Kilometre’.

¹¹³ See Paragraph 1.4 of the Guidelines. See also Rule 46 (2) of the ROP.

¹¹⁴ See Paragraph 8.

that using the term ‘recommendations’ is attributed to the compromise reached during UNCLOS III¹¹⁵. In general, the CLCS shall consider, draft, amend and approve the recommendations in accordance with Rule 53 of its ROP and Part V of Annex III (Modus Operandi) to the ROP. Despite that, neither the LOSC nor the ROP address the event whereby these recommendations are ignored by the coastal states and decides to act otherwise.

Fifth, besides the function explained above, the CLCS shall provide scientific and technical advice, if requested by the coastal state concerned during the preparation of the data. For this purpose, the CLCS has established a subsidiary body (Committee) devoted to the provision of scientific and technical advice for coastal states which intend to make a submission¹¹⁶. It has also developed, with the assistance of DOALOS, ‘a five-day training course for delineation of the outer limits of the continental shelf beyond 200 nautical miles and for preparation of a submission of a coastal State to the CLCS’¹¹⁷ the latest of which was conducted in Guayaquil, Ecuador¹¹⁸. In addition, a coastal state is allowed to seek advice from any member, acting in his/her personal capacity, in preparing its submission provided that it discloses his/her name in its submission in order to be excluded from the sub-commission that will review the submission. It is recognized as well that the Guidelines and DOALOS Manual, which is based on the former and was prepared with the assistance of two of the CLCS members, were adopted to primarily serve and assist coastal states in preparing their submissions¹¹⁹. Such a role obviously enhances the fact that the CLCS is a body established by the drafters of the LOSC mainly to assist coastal states to define precisely the outer limits of their continental shelves beyond 200 nautical miles. It is worth mentioning though that as of 31 March 2014, no coastal State has made a request to seek scientific and technical advice from the CLCS.¹²⁰

Finally, it should be noted as well, albeit not being dealt with under Article 76, that ‘the actions of the Commission shall not prejudice matters relating to delimitation of boundaries

¹¹⁵ See footnote no. 70 at pp. 77-79.

¹¹⁶ See Rule 55 of the ROP.

¹¹⁷ See outline for a five-day training course for delineation of the outer limits of the continental shelf beyond 200 nautical miles and for preparation of a submission of a coastal State to the CLCS, CLCS/24, Eighth session, 1 September 2000.

¹¹⁸ See Statement by the Chair on the progress of the work in the CLCS, CLCS/83, thirty-fourth session, 31 March 2014, Item 18. The course in Guayaquil, Ecuador was held, with regional participation, from 2 to 11 December 2013.

¹¹⁹ See the preface of the Guidelines at p. 6 and Introduction of DOALOS Manual at pp. xvii-xix.

¹²⁰ See Statement by the Chair on the Progress of Work in the CLCS, CLCS/83, thirty-fourth session, 31 March 2014, Item 17.

between States with opposite and adjacent coasts'¹²¹. Therefore, 'in cases where a land or maritime dispute exists, the Commission shall not consider and qualify a submission made by any of the States concerned in the dispute'¹²² until a later stage, as queued in the order in which it was received, to allow these states to take advantage of avenues available to them including the provisional arrangements of a practical nature outlined in Annex I to its ROP¹²³. The rationale behind this is that the CLCS is a technical body composed of scientists who are not qualified legally to settle disputes between states. Moreover, it is recognized that this competence rests with States¹²⁴ which may settle any maritime boundary delimitation dispute between them either bilaterally or through the dispute settlement mechanisms provided under the LOSC¹²⁵.

3.2. Submission

3.2.1. Procedure

As illustrated in section two of chapter two, the provisions of Article 76 of the LOSC flow in a logical order. They begin first by upholding the right of a coastal state to a continental shelf and providing a clear definition for the continental shelf as a legal concept. Then, they go on to prescribe the process/rules according to which the outer limits of the continental shelf beyond 200 nautical miles should be delineated by the coastal state as 'not to extend beyond the limits provided for in paragraphs 4 to 6'. Having done that, the coastal state then 'shall establish the outer limits of the continental shelf in conformity with the provisions of Article 76, paragraph 8, and in accordance with the appropriate national procedures'¹²⁶. Paragraph 8 of the said Article stipulates that 'information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the CLCS'. Annex II to

¹²¹ See Article 9 of Annex II to the LOSC.

¹²² See Paragraph 5 (a) of Annex I to the ROP.

¹²³ Objections to other states' submissions due to the existence of a land or maritime dispute are done by sending a note verbale stating so to the Secretary General of the UN after making public by the latter, pursuant to Rule 50 of the ROP, of the executive summary including all charts and coordinates, referred to in paragraph 9 (1) (4) of the Guidelines, of the submission. As of 14 April 2014, the CLCS deferred, due to the existence of a dispute, the consideration of the submissions made by Myanmar; Yemen, the United Kingdom of Great Britain and Northern Ireland, in respect of the Hatton Rockall Area; Ireland, in respect of Hatton-Rockall Area; Fiji; and Malaysia and Viet Nam in the Southern part of the South China Sea. See Letter dated 14 April 2014 from the Chair of the CLCS addressed to the President of the twenty-fourth SPLOS, SPLOS/270, twenty-fourth Meeting, 14 April 2014, Paragraph 5. Also, the CLCS deferred the consideration, due to an objection from other states, of Japan's claim of the Southern Kyushu-Palau Ridge Region (KPR). See Summary of Recommendations of the CLCS in Regard to the Submission made by Japan on 12 November 2008, adopted by the Sub-commission on 12 August 2011, adopted by the Commission, with amendments, on 19 April 2012, Part IV (A), at pp. 4-5.

¹²⁴ See Paragraph 1 of Annex I to the ROP.

¹²⁵ This is in accordance with Part XV of the LOSC.

¹²⁶ See Article 7 of Annex II to the LOSC.

the LOSC further provides that ‘where a coastal State intends to establish, in accordance with Article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice’¹²⁷.

That being said, it is apparent, first and foremost, that Article 76 puts the burden of establishing the outer limits of the continental shelf beyond 200 nautical miles on the coastal state. The latter is the one who ‘shall’ ‘delineate’ and ‘submit data and other material’, whereas the CLCS’s role is mainly, as illustrated above, to consider these ‘data and other material’ and provide ‘recommendations’. Undoubtedly, coastal states may delineate the outer limits of their continental shelves beyond 200 nautical miles at any time but making a submission before the CLCS has to be ‘within 10 years of the entry into force of the LOSC for that State’. Consequently, meeting this time limit was not possible especially by developing countries and would cause unfairness for those states that ratified the LOSC before the CLCS was constituted¹²⁸ and had drafted its Rules of Procedure as well as that no scientific and technical guidelines were made available to assist coastal states in how to apply the provisions of Article 76 and make a submission¹²⁹. Having realized this, States Parties to the LOSC decided that ‘in the case of a State Party for which the LOSC entered into force before 13 May 1999, the date of adopting the Guidelines, it is understood that the ten-year time period referred to in Article 4 of Annex II to the LOSC shall be taken to have commenced on 13 May 1999; and that the general issue of the ability of States, particularly developing ones, to fulfil the requirements of Article 4 of Annex II to the LOSC be kept under review’¹³⁰. Following this decision, the Russian Federation, Brazil and Australia were the first states to make submissions on 20 December 2001, 17 May 2004 and 15 November 2004 respectively¹³¹. On the other side, the majority of other States Parties to the LOSC with a potential continental shelf that exceed 200 nautical miles, driven by the aim to meet the new deadline of the time limit, submitted either a full submission to the CLCS or preliminary

¹²⁷ See Article 4.

¹²⁸ The LOSC provides that the CLCS shall be established within 18 months after the date of entry into force of the LOSC (before 16 May 1996); however, the election of the first membership of the CLCS was postponed until March 1997 by a decision of the Third Meeting of States Parties to the LOSC, held from 27 November to 1 December. See SPLOS/5, 22 February 1996, Paragraph 20.

¹²⁹ See Decision regarding the date of commencement of the 10-year period for making submissions to the CLCS set out in Article 4 of Annex II to the LOSC, SPLOS/72, Eleventh meeting, 29 May 2001, Preamble.

¹³⁰ *Ibid.*, paragraphs (a) and (b).

¹³¹ See **table 1** above.

information to the Secretary General of the UN in 2009¹³². This as a result increased the workload of the CLCS as compared to the early years of the 10 year period. For other states that will become parties to the LOSC in the future, making a submission has to be within 10 years of the entry into force of the LOSC for them.

It is well recognized that ‘the establishment of the outer limits of the continental shelf beyond 200 nautical miles under Article 76 is a complex process, which requires a coastal State to dedicate significant resources’¹³³. The coastal State has to use various scientific methodologies to apply the provisions of Article 76 which are time-consuming, and require a lot of financial resources and technical expertise. For instance, geomorphology is necessary to prove the natural prolongation of the continental margin into and under the sea¹³⁴. So are bathymetry to locate precisely the foot of the slope of the continental margin from which the Gardiner and Hedberg (formulae) lines are measured¹³⁵, seismic data to determine the sediment thickness that is used for applying the Gardiner formula¹³⁶, and geodetic datum to identify the distance requirements of Article 76 and finally draw the points making the outer limit lines of the continental shelf¹³⁷. **Appendix 4** underlines the correlation between the provisions in Article 76 and the various sciences that are required to implement them. Having realised this, some States Parties to the LOSC sought to submit, within the 10 year period limit, only preliminary information to the Secretary General of the UN rather than making a full submission to the CLCS in order to give themselves more time to be able to meet the requirements of Article 76¹³⁸. The General Assembly of the UN also established, following a request by States Parties to the LOSC, a trust fund for the purpose of facilitating the

¹³² See tables 1 and 2 above.

¹³³ See Alex G. Oude Elferink, ‘Article 76 of the LOSC on the Definition of the Continental Shelf: Questions concerning its Interpretation from a Legal Perspective’ (2006) 21 *The International Journal of Marine and Coastal Law* 3 at p. 270.

¹³⁴ See Module IV of DOALOS Manual.

¹³⁵ See Chapter 5 of the Guidelines. In case there is exceptionally ‘evidence to the contrary’ to the general rule in Article 76, paragraph 4 (b), geological and geophysical evidence can be used. See Chapter 6 of the Guidelines.

¹³⁶ See Chapter 8 of the Guidelines.

¹³⁷ See Chapter 3 of the Guidelines.

¹³⁸ This is pursuant to the ‘Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfill the requirements of Article 4 of annex II to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, paragraph (a)’, SPLOS/183, adopted at the Eighteenth Meeting of States Parties of the LOSC, 20 June 2008, whereby States Parties to the LOSC decided that ‘It is understood that the time period referred to in article 4 of annex II to the Convention and the decision contained in SPLOS/72, paragraph (a), may be satisfied by submitting to the Secretary-General preliminary information indicative of the outer limits of the continental shelf beyond 200 nautical miles and a description of the status of preparation and intended date of making a submission in accordance with the requirements of article 76 of the Convention and with the Rules of Procedure and the Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf’. See Article 1 (a).

preparation of submissions to the CLCS for developing states, in particular the least developed countries and small-island developing states¹³⁹.

Once the coastal state delineates, in accordance with Article 76 and the national appropriate procedures, the outer limits of its continental shelf beyond 200 nautical miles, a submission, as well as its annexes, attachments and other supporting material, shall be made by the coastal state, through the Secretary General of the UN, to the CLCS in one of its official languages¹⁴⁰. It ‘shall contain three separate parts: an executive summary, a main analytical and descriptive part (main body), and a part containing all data referred to in the analytical and descriptive part (supporting scientific and technical data)’¹⁴¹. **Table 4** illustrates the number and type of copies the submissions should consist of. One electronic copy should also ‘be made in a secure unalterable format (e.g. locked pdf file), and should be certified by the coastal state to be identical to the hard copy version’, while the other electronic copy should be open¹⁴².

Table 4: The number and type of copies that constitute the submission:

| | <i>Hard copy</i> | <i>Electronic copy</i> |
|---------------------|------------------|------------------------|
| Executive summary | 22 | 2 |
| Main body | 8 | 2 |
| All supporting data | 2 ^a | 2 |

Source: Annex III (Modus Operandi) to the ROP, at p. 26

For the sake of simplicity, DOALOS has also introduced practical suggestions concerning the final preparation and deposit of submissions to the CLCS through the Secretary General of the UN. See **appendix 5**. Representing the latter, the Secretariat shall

¹³⁹ See Resolution adopted by the General Assembly, A/RES/55/7, fifty-fifth session, 27 February 2001, para. 18 and Annex II to the Resolution. The Trust Fund is administered by DOALOS. See Article 11 of Annex II to the Resolution.

¹⁴⁰ See Rule 47 (2) of the ROP. If the submission was made in an official language other than English, it shall be translated by the Secretariat into English. *Ibid.* The official and working languages of the CLCS are Arabic, Chinese, English, French, Russian and Spanish. See Rule 19 (1) of the ROP.

¹⁴¹ See Article I (1) of Annex III (Modus Operandi) to the ROP. See also Chapter 9 of the Guidelines for the submission of supporting scientific and technical data.

¹⁴² See Article 1 (2) of Annex III (Modus Operandi) to the ROP. It is worth noting here that ‘in the case of any discrepancies between the secure electronic copy and the hard copy of the submission, the latter will be deemed to be the primary source, unless the coastal State indicates otherwise’. *Ibid.*

record, upon receipt, the submission¹⁴³, acknowledge its receipt to the coastal state¹⁴⁴, and more importantly notify promptly the CLCS and all States Members of the UN of the receipt of the submission, and make public the executive summary including all charts and coordinates referred to in paragraph 9.1.4 of the Guidelines and contained in that summary¹⁴⁵. The submission shall then be included in the provisional agenda of the next ordinary session of the CLCS provided that it is held not earlier than three months after the date of publication by the Secretary General of the UN of the Executive Summary¹⁴⁶ for which the coastal state shall be notified and invited to send its representatives to participate, without the right to vote, in the proceedings of the CLCS pursuant to section VI of Annex III to the ROP¹⁴⁷. Generally speaking, ‘the submission shall be considered in accordance with the rules on confidentiality contained in annex II to the ROP’¹⁴⁸ and the meetings of the CLCS and its sub-commissions shall be held in private, unless the CLCS decides otherwise¹⁴⁹. Despite that, there have been voices, even from the CLCS itself, calling for more transparency in the work of the CLCS and not to restrict the circulation of the communications received from the submitting states to the CLCS members only¹⁵⁰.

In the case that no objection was raised, following the publication of the Executive Summary, due to the existence of an unresolved land or maritime dispute with another state

¹⁴³ See Rule 48 of the ROP. ‘The record shall contain the date of receipt of the submission, a list of attachments and annexes thereto and the date of entry into force of the LOSC for the coastal State which made the submission’. *Ibid.*

¹⁴⁴ See Rule 49 of the ROP.

¹⁴⁵ See Rule 50 of the ROP.

¹⁴⁶ See Rule 51 (1) of the ROP and Article 2 of Annex III (Modus Operandi) to the ROP. It is worth mentioning that ‘if the next ordinary session of the CLCS is not scheduled within a reasonable time, the Chairperson of the CLCS may, upon the notification by the Secretary General of the receipt of the submission in accordance with Rule 50, request an additional session to be convened in accordance with Rule 2, within a suitable time for the purpose of considering the submission’. See Rule 51 (2) of the ROP.

¹⁴⁷ See Article 5 of Annex II to the LOSC and Rule 52 of the ROP. Section VI of Annex III (Article 15 (1)) to the ROP stipulates that ‘the CLCS understands that there are three proceedings deemed relevant for all submissions: (a) the meeting at which, in accordance with paragraph 2 (a) of section II, coastal State representatives make a presentation to the CLCS concerning the submission; (b) meeting at which the sub-commission invites representatives of the coastal State for consultation; and (c) meetings at which the representatives of the coastal State wish to provide additional clarification to the sub-commission on any matters relating to the submission, including those referred to in paragraph 10.4’.

¹⁴⁸ See Rule 51 (3) of the ROP. Annex II to the ROP allows coastal States to classify as confidential any ‘data and other material’, not otherwise publicly available, that it submits to the CLCS, and access to them shall be confined to the members of the CLCS, and the Secretary General of the UN and other members of the Secretariat designated for that purpose. Also, it provides that any confidential information coming to the knowledge of the CLCS members by reason of their duties in relation to the CLCS shall not be disclosed by them after they cease to be members. Hence, a standing Committee on Confidentiality shall be elected from the CLCS members to deal with the issue of confidentiality.

¹⁴⁹ See Rule 23 and Rule 44 bis (4) of the ROP. Hence, the latter goes on to state that no records of the personal notes distributed among the 7 members of the sub-commission and oral deliberations shall be disclosed to other members of the CLCS who are not members of the sub-commission.

¹⁵⁰ See letter dated 14 April 2014 from the Chair of the CLCS addressed to the President of the twenty-fourth Meeting of States Parties, SPLOS/270, twenty-fourth Meeting, 14 April 2014, Paragraph 27. See also footnote no. 88 at pp. 431-435.

which will render the submission to be deferred¹⁵¹, the CLCS shall move forward by establishing a sub-commission of 7 members in accordance with Rule 42 of the ROP for the consideration of the submission¹⁵². Before that though, the submission shall be queued in the order it is received until it becomes next in line to be taken for consideration by a sub-commission and that is only after one of the three working sub-commissions presents its recommendations to the CLCS¹⁵³. Obviously, the period of waiting for a submission in the queue will depend on the number of submissions that have already been sitting in the queue. As an illustration, since its deposition on 12 May 2009, the submission made by Namibia, the last submission to be made in 2009 before the end of the 10 year period, has not been, as of the date of 11 September 2014, put before a sub-commission¹⁵⁴.

After being established, the sub-commission shall undertake a thorough analysis of the submission in accordance with Article 76 of the LOSC and the Guidelines in order to determine the precise extent of the continental shelf beyond 200 nautical miles of the coastal state. During its preliminary analysis, the sub-commission can estimate the time required by it to review all the data and prepare its recommendations for the CLCS¹⁵⁵, and accordingly notify, through the Secretariat, the coastal state of the preliminary timetable for the examination of its submission¹⁵⁶. It may also, as illustrated above, interact with, and seek clarifications and further information from the coastal state towards drafting its final recommendations. To reach this stage, the sub-commission shall make every effort to reach agreement on substantive matters by way of consensus and there shall be no voting, pursuant to Rule 37 of the ROP, on such matters until all efforts to achieve consensus have been exhausted¹⁵⁷. Prior to the end of the examination, the delegation of the coastal state shall be invited to be provided with the final conclusions regarding which the delegation may respond¹⁵⁸. Subsequently, the sub-commission will submit, in writing, its recommendations to the CLCS¹⁵⁹ in which it shall state, backed by the rationale, if it agrees with the outer limits established by the coastal state, disagrees with these outer limits and proposes alternatives, or that the submission does not contain sufficient data and a revised or new submission is

¹⁵¹ See footnotes no. 121 and 122.

¹⁵² See Rule 51 (4) of the ROP.

¹⁵³ See Rule 51 (4 ter) of the ROP.

¹⁵⁴ See **table 1** above.

¹⁵⁵ See Articles 5 (e) and 8 (1) of Annex III (Modus Operandi) to the ROP.

¹⁵⁶ See Article 8 (2) of Annex III (Modus Operandi) to the ROP.

¹⁵⁷ See Rule 35 (2) of the ROP. This rule also applies to the CLCS as a whole. *Ibid.* Rule 37 of the ROP reemphasises what is stated in Article 6 (2) of Annex II to the LOSC that, failing agreement based on consensus, decisions on all matters of substance shall be taken by a two-thirds majority of the members present and voting.

¹⁵⁸ See Article 10 (3) and (4) of Annex III (Modus Operandi) to the ROP.

¹⁵⁹ See Article 14 of Annex III (Modus Operandi) to the ROP.

needed¹⁶⁰. The CLCS shall then, unless it decides otherwise, consider these recommendations in the next session following their submission by the sub-commission¹⁶¹ for which the delegation of the coastal state will be invited again to give, if it chooses so, a presentation for the last time without engaging in any discussion¹⁶². Following that, the CLCS will adopt the final recommendations¹⁶³, based on which the outer limits of the continental shelf under examination shall be established, and submit them in writing to the coastal state and the Secretary General of the UN¹⁶⁴.

Apparently therefore, describing the process of consideration of submissions by the CLCS as merely ‘procedural’¹⁶⁵ is unarguably true; however, the determining factor is the outcome of this process as the CLCS has the right, as evident from above, to recommend different outer limits for the continental shelf than those of the coastal state or even to recommend that a revised or new submission is necessary. For instance, on the basis of the CLCS’s recommendations, both the Russian Federation and Barbados made revised submissions¹⁶⁶, and different outer limits were recommended with respect to the UK’s submission regarding Ascension Island than those submitted by the UK¹⁶⁷. More importantly, ‘the limits of the shelf established on the basis of the CLCS’s recommendations shall be final and binding’¹⁶⁸, and charts and relevant information, including geodetic data, permanently describing them shall be deposited with the Secretary General of the UN by the coastal state to give them due publicity¹⁶⁹. However, it is not clear if they are binding on the coastal state alone or on all States Parties to the LOSC including opposite and adjacent states¹⁷⁰. The only authentic text of the LOSC that states explicitly that the CLCS recommendations shall have a

¹⁶⁰ See Article 12 (4-6) of Annex III (Modus Operandi) to the ROP.

¹⁶¹ See Rule 53 (1) of the ROP.

¹⁶² See Article 15 (1 bis) of Annex III (Modus Operandi) to the ROP. For this presentation, the delegation of the coastal state may be allowed up to half a day to present any matter related to its submission to the plenary of the CLCS without engaging in any discussion. *Ibid.*

¹⁶³ See Rule 53 (1) of the ROP. The CLCS, in making its final recommendations, shall either approve or amend the recommendations prepared by the sub-commission. *Ibid.*

¹⁶⁴ See Article 6 (3) of Annex II to the LOSC and Rule 53 (3) of the ROP.

¹⁶⁵ See footnote no. 107.

¹⁶⁶ See **table 1** above.

¹⁶⁷ See Summary of the Recommendations of the CLCS in regard to the Submission made by the United Kingdom of Great Britain and Northern Ireland in respect of Ascension Island on 9 May 2008, adopted by the CLCS with amendments on 15 April 2010, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/gbr08/gbr_asc_isl_rec_summ.pdf [last accessed 11/09/2014].

¹⁶⁸ See Article 76 (8) of the LOSC.

¹⁶⁹ See Article 76 (9) of the LOSC. The purpose of due publicity at the stage is clearly to allow all States Members of the UN, particularly States with opposite and adjacent coasts to the coastal state, to know transparently the recommended final outer limits by the CLCS for the continental shelf of the coastal state.

¹⁷⁰ According to Paragraph 2.3.11 of the Guidelines, the CLCS acknowledges that according to paragraph 2 of Article 76 of the LOSC, coastal States shall not extend the outer limits of their continental shelf beyond the limits established on the basis of its recommendations.

binding force on all states is the Russian text, whose interpretation *vis-à-vis* the other authentic texts of the LOSC, if it is read pursuant to Article 33 (4) of the Vienna Convention on the Law of Treaties of 1969, shall be adopted¹⁷¹. Coastal state is required, upon receipt of the recommendations, to delimit any area of overlap with its opposite and adjacent states in accordance with Article 83 of the LOSC¹⁷². Subject to this and unless the coastal state is in disagreement with the CLCS recommendations, the outer limit lines of the continental shelf shall be ultimately shown on charts of a scale or scales adequate for ascertaining their position, such as lists of geographical coordinates of points specifying the geodetic datum, and give them due publicity as well as deposit a copy of each such chart or list with the Secretary General of the UN and with the Secretary General of the ISA¹⁷³. **Appendix 6** illustrates, in summary, the above procedures through which a submission goes until the deposit of the final recommendations.

3.2.2. Benefits and Costs

As illustrated in Chapter two, the development of the regime of the continental shelf was significantly driven by economic factors. Saying so of course does not underestimate the fact that the continental shelf is a land-based principle and exists as an entitlement *per se* for the coastal state. But undoubtedly, this fact has strengthened and gained more momentum after states became aware, *via* advancement of technology, that the continental shelf contains a huge quantity of minerals and other natural resources. For instance, in the *Case Concerning the Continental Shelf (Tunisia / Libyan Arab Jamahiriya)*, the ICJ stated ‘in their pleadings, as well as in their oral arguments, both Parties appear to have set so much store by economic factors in the delimitation process that the Court considers it necessary here to comment on

¹⁷¹ Article 33 of the Vienna Convention on the Law of Treaties stipulates that ‘(1) when a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail; (2) a version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree; (3) the terms of the treaty are presumed to have the same meaning in each authentic text; (4) except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic text discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted’.

¹⁷² Article 83 (1) & (2) of the LOSC stipulate that ‘the delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution, and if no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV’.

¹⁷³ See Article 84 of the LOSC. Obviously, these charts and lists of coordinates are crucial for the ISA as the establishment of the outer limits of continental shelves beyond 200 nautical miles determine the limits of the Area to be managed by it.

the subject'¹⁷⁴ and that '[...] a country might be poor today and become rich tomorrow as a result of an event such as the discovery of valuable economic resources [...]'¹⁷⁵. There was even a belief that 'the continental shelf may well be the site of the last totally unexplored great source of petroleum'¹⁷⁶. It has been established that 'the resources that occur on the world's continental margins may include oil, natural gas, gas hydrates, manganese nodules, sand, gravel, titanium, thorium, iron, nickel, copper, cobalt, gold and diamonds'¹⁷⁷. Moreover, 'given the economic significance of sources of energy supplies, it must be expected that current technological limits will advance gradually, and with these improvements, it may be anticipated that the exploitation of the continental shelf beyond 200 nautical miles will take place in the near future'¹⁷⁸.

The participants in UNCLOS III having realized this, a balance had to be essentially struck, by way of rights and duties, to ensure the rights of the coastal state over its continental shelf on one hand and protect the rights of the international community on the other hand. Therefore, Part VI of the LOSC goes on, consistently with the other maritime zones, to spell out specifically the elements of this balance. It begins by establishing explicitly that 'the coastal state exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources'¹⁷⁹. These rights are exclusive in the sense that no one may undertake these activities without the express consent of the coastal state even if the coastal state does not explore the continental shelf or exploit its natural resources¹⁸⁰. The 'sovereign rights' include, according to the ILC, 'all rights necessary for and connected with the exploitation of the continental shelf [...] including jurisdiction in connection with the prevention and punishment of violations of the law'¹⁸¹. Whereas the referred to 'natural resources' consist of 'the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species that is to say, organisms which, at the harvestable stage, are either immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil'¹⁸². Examples of sedentary species are oysters, clams and abalone but it is still controversial whether crabs and lobsters

¹⁷⁴ See footnote 32, at p.77, para.106.

¹⁷⁵ *Ibid*, at pp. 77-78, para. 107.

¹⁷⁶ See footnote 14 at p.53.

¹⁷⁷ See Jean-Pierre Levy, *The International Seabed Authority: 20 years* (International Seabed Authority, Jamaica, 2014), available online at: <http://www.isa.org.jm/files/documents/EN/Pubs/ISBA-20.pdf> [last accessed 13/09/2014] at p. 45.

¹⁷⁸ *Ibid*, at p. 46.

¹⁷⁹ See Article 77 (1) of the LOSC.

¹⁸⁰ See Article 77 (2) of the LOSC.

¹⁸¹ See Yearbook of the ILC, 1959, Vol. II, Report of the ILC to the General Assembly Document A/3159, at p. 297.

¹⁸² See Article 77 (4) of the LOSC.

fall under this category¹⁸³. In connection with exploration and exploitation, the coastal state shall have also ‘the exclusive right to authorize and regulate drilling on the continental shelf for all purposes’¹⁸⁴ and the right ‘to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil’¹⁸⁵. Furthermore, it shall ‘have the exclusive right to construct and to authorize and regulate the construction, operation and use of artificial islands; installations and structures for the purposes provided for in Article 56 of the LOSC and other economic purposes; and installations and structures which may interfere with the exercise of the rights of the coastal State in the continental shelf’¹⁸⁶. In addition, the coastal state has, in the exercise of its jurisdiction, the right to regulate, authorize and conduct marine scientific research on its continental shelf in accordance with the relevant provisions of the LOSC¹⁸⁷. More importantly, and as mentioned above, these rights of the coastal state over its continental shelf do not depend on occupation, effective or notional, or on any express proclamation¹⁸⁸.

On the other hand, Part VI of the LOSC provides that ‘the rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters’¹⁸⁹. Furthermore, the coastal state must not, in exercising its rights over its continental shelf, ‘infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided in the LOSC’¹⁹⁰. Other states or competent organizations shall also be granted the consent of the coastal state, without delay or unreasonable denial, to conduct scientific research projects on its continental shelf for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind, except in the circumstances provided under paragraph 5 of Article 246 of the LOSC¹⁹¹. Moreover, the coastal state shall adopt laws and regulations to prevent, reduce, and control pollution of the marine environment arising from or in connection with seabed activities subject to its jurisdiction and from artificial islands,

¹⁸³ See footnote no. 37 at pp. 151-152. For more elaboration about the provision of ‘sedentary species’, see L.F.E. Goldie, ‘Sedentary Fisheries and Article 2 (4) of the Convention on the Continental Shelf – A Plea for a Separate Regime’ (1969) 63 *American Journal of International Law* at pp. 86-97.

¹⁸⁴ See Article 81 of the LOSC.

¹⁸⁵ See Article 85 of the LOSC.

¹⁸⁶ See Articles 80 and 60 (1) of the LOSC. The coastal state ‘shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations’ and ‘may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures’. See Article 60 (2) & (4) of the LOSC.

¹⁸⁷ See Article 246 (1) of the LOSC. The second paragraph of this Article also stipulates that ‘marine scientific research [...] on the continental shelf shall be conducted with the consent of the coastal State’.

¹⁸⁸ See Article 77 (3) of the LOSC.

¹⁸⁹ See Article 78 (1) of the LOSC.

¹⁹⁰ See Article 78 (2) of the LOSC.

¹⁹¹ See Article 246 (3) of the LOSC. For this purpose, the coastal state shall establish rules and procedures. *Ibid.*

installations and structures under its jurisdiction, pursuant to article 60 and 80 of the LOSC¹⁹². In this connection, attention has to be paid regarding the conservation and protection of marine biodiversity in light of the developments that are taking place regarding this issue at the UN through the Ad Hoc Open-Ended Informal Working Group established for this purpose whose work, which has been going on for years now, might lead to a new implementing agreement for the LOSC¹⁹³. Article 79 of the LOSC also stipulates that ‘all States are entitled to lay submarine cables and pipelines on the continental shelf’¹⁹⁴ and ‘[...] the coastal State may not impede the laying or maintenance of such cables or pipelines’¹⁹⁵. Notwithstanding that, this entitlement is subject to the right of the coastal state to ‘take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines’¹⁹⁶ and to its consent regarding the delineation of the course for the laying of such pipelines on its continental shelf¹⁹⁷.

Generally speaking, the above balance between rights and corresponding duties of the coastal state *vis-à-vis* the other states applies on the continental shelf regardless of the extent of its outer limits whether they are 200 nautical miles or beyond. However, it is worth mentioning that in case of the former there will be an overlap with another maritime zone namely the exclusive economic zone whose outer limit too is defined by the distance of 200 nautical miles¹⁹⁸. In such a situation, further rights shall be conferred to the coastal state pertaining to the water column above the subsoil and seabed of its 200 nautical miles continental shelf, provided that it proclaims this EEZ or zone reliant on it such as an exclusive fishing zone¹⁹⁹, otherwise that water column will be part of the regime of the high seas and the rights associated with it will not extend beyond the 200 nautical miles limit²⁰⁰. That being said, the coastal state, by making a submission to the CLCS, will consequently, if

¹⁹² See Article 208 (1) of the LOSC. These laws, regulations and measures shall not be less effective than international rules, standards, and recommended practices and procedures. *Ibid*, paragraph (3).

¹⁹³ This group was established by Resolution No. 59/24 of the UN General Assembly of 17 November 2004, paragraph 73, to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. Ever since, it has been conducting its work, and in 2014, two meetings, pursuant to Resolution 68/70, paragraph 200, have been convened by the Secretary General of the UN so far (1 to 4 April and 16 to 19 June 2014).

¹⁹⁴ See Paragraph (1).

¹⁹⁵ See Paragraph (2).

¹⁹⁶ See Article 79 (2) of the LOSC.

¹⁹⁷ See Article 79 (3) of the LOSC. Also, the coastal state’s right to ‘establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operation of artificial islands, installations and structures under its jurisdiction’ shall not be affected. *Ibid*, paragraph (4).

¹⁹⁸ See Article 57 of the LOSC.

¹⁹⁹ Regarding these rights associated with the EEZ, see Part V of the LOSC.

²⁰⁰ The provisions of the legal regime of the high seas are contained under Part VII of the LOSC.

it has met the requirements of Article 76, have the right to extend the rights attributed to the continental shelf to the finally established outer limits. However, as such extension, if it is not made, would be part of the Area which and its resources are ‘the common heritage of mankind’, the coastal state is under a duty to make annually payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf to the ISA, unless it is a developing state which is a net importer of a mineral resource produced from its continental shelf²⁰¹. The ISA shall then ‘distribute these payments or contributions to the States Parties to the LOSC, on the basis of equitable sharing criteria, taking into account the interests and needs of the developing States, particularly the least developed and the land-locked among them’²⁰². This provision led some commentators to point out that it is ‘instituted in a such manner that the concept of the common heritage of mankind plays a role in controlling over-expansion of the exclusive interests of coastal States in their continental shelves’²⁰³.

More importantly, the coastal state, whether the outer limits of its continental shelf are up to the distance of 200 nautical miles or beyond, is required to delimit its continental shelf if it overlaps with the continental shelves of other states with opposite or adjacent coasts. This delimitation shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the ICJ, in order to achieve an equitable solution²⁰⁴. Pending agreement, the states concerned shall make, in a spirit of cooperation and understanding, ‘every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement’²⁰⁵. If the states concerned fail to reach an agreement within a reasonable period, they shall then resort

²⁰¹ See Article 82 (1, 2 & 3) of the LOSC. These payments and contributions shall be made ‘with respect to all production at a site after a first 5 years of production at that site. For the 6th year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the 12th year and shall remain at 7 percent thereafter. Production does not include resources used in connection with exploitation’. *Ibid*, Paragraph (3).

²⁰² See Article 82 (4) of the LOSC. For more information, see George Mingay, ‘Article 82 of the LOSC Convention – Revenue Sharing – The Mining Industry’s Perspective’ (2006) 21 *The International Journal of Marine and Coastal Law* 3 pp. 335-346

²⁰³ Cited in David M. Ong, ‘A Legal Regime for the Outer Continental Shelf? An Inquiry as to the Rights and Duties of Coastal States with the Outer Continental Shelf’, published on the website of the International Hydrographic Organization (IHO) at: http://www.iho.int/mtg_docs/com_wg/ABLOS/ABLOS_Conf3/PAPER7-4.PDF [last accessed 19/09/2014] at p. 3. Article 82 is also referred to as the ‘*quid pro quo*’ by which the international community is not fully deprived of the benefits derived by the coastal state in recognizing its sovereign rights over the continental shelf beyond 200 nautical miles. See footnote no. 37 at p. 157.

²⁰⁴ See Article 83 (1) of the LOSC. In the case ‘there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement’. *Ibid*, Paragraph (4).

²⁰⁵ See Article 83 (3) of the LOSC. In any case, these arrangements shall be without prejudice to the final delimitation. *Ibid*.

to the procedures provided for in Part XV of the LOSC²⁰⁶. Conversely, due publicity, as illustrated above²⁰⁷, shall be given to the outer limits of the continental shelf and deposited with the Secretary General of the UN.

From a practical point of view, the extension of the continental shelf beyond 200 nautical miles has also costs and benefits for the coastal state. As mentioned above²⁰⁸, the process of delineating the outer limits, making a submission, interacting with the CLCS and depositing the final outer limits, *inter alia*, is so complex scientifically, legally, politically and financially that a lot of states, especially developing ones, find themselves unable for one reason or another to meet its requirements or need assistance to do so. On the other hand, this process allows the coastal states to determine the outer limits of their continental shelves precisely and peacefully, and consequently exercise their sovereign rights emanating from the continental shelf with confidence and certainty. Moreover, it leads to the build-up of a national expertise in various fields of sciences that will be a source of knowledge for the coastal states in the future in multiple ways, and a scientific reference for other states that seek to make a submission. By the same token, surveying and collecting data from the sea floor enhance the coastal state's understanding of the tectonic history and geophysical nature of its continental shelf which facilitate the establishment of a well-detailed database and the exploitation of minerals and other non-living resources of the continental shelf such as oil and gas. Apparently therefore, besides its existence as an inherent entitlement, extending the continental shelf beyond 200 nautical miles embodies the features of an investment for the future. In return for the costs that the coastal state bears in making that happen, it gains a lot of benefits.

3.3. Concluding Remarks

Since its emergence in the international arena, the legal regime of the continental shelf has traced a long journey of evolution from seven decades ago until 1994; the year of entry into force of the LOSC. At present, while clarity and certainty in terms of the definition and limits of the continental shelf are in place, states are focusing on the practical aspects of exercising the rights stemming from their entitlement over the continental shelf. In addition, it has become simply well established with the adoption of the LOSC that

²⁰⁶ See Article 83 (2) of the LOSC.

²⁰⁷ See footnote no. 173.

²⁰⁸ See footnote no. 133.

if the natural prolongation of the continental margin of a coastal state is within 200 nautical miles from the baselines, no proclamation action is required from that state to exercise its sovereign rights over the continental shelf up to that distance. And in case the continental margin of the coastal state exceeds 200 nautical miles, the outer limits have to be delineated in accordance with the requirements envisaged in Article 76, and a submission made to the CLCS to establish finally the precise location of these outer limits. Doing so is undoubtedly a complex process and costs will be incurred; however, sovereign rights and a lot of economic benefits will be gained by the coastal state²⁰⁹. Having said that, lodging a submission with the CLCS is neither the only element nor the ending point as processes, *inter alia*, of preparation, submission of information and interaction are necessary to complete the full picture. In this context therefore, understanding the historical development of the continental shelf, its definition, the functions and role of the CLCS, and the procedures of the submission play a significant role towards the successful submission of data to the CLCS to extend the continental shelf beyond 200 nautical miles with the aim of realizing the final objective of establishing precisely its outer limits.

²⁰⁹ Apparently, this will be dependent on the discovery of minerals and other no-living resources.

Second Part:

In light of the aforementioned, it is clear now that States Parties to the LOSC shall prepare and deposit their submissions to extend their continental shelves beyond the distance of 200 nautical miles with the CLCS in order to finally establish the outer limits of those continental shelves. Article 76, Annex II to the LOSC, Rules of Procedure of the CLCS and its annexes, the Guidelines and DOALOS Manual constitute and provide collectively the basis upon which all parties involved in the submission shall act and the submission process is conducted. The submissions that have already been considered and given recommendations by the CLCS play also an auxiliary role for other submissions that have not yet been considered or even deposited. As mentioned above, Oman is one of the coastal states which have potentially a continental shelf that extends beyond 200 nautical miles from the baselines which requires a submission, pursuant and subject to the above rules and process, to be deposited with the CLCS to establish its final outer limits. Having said that and given it will be submitted in the near future, this part aims to focus on Oman's submission in light of the first part from different legal and technical angles, submissions made by neighbouring and other states, and the different types of challenges it might face and how to overcome them with the aim of putting it on the right track.

4. Oman's Submission

4.0. Introductory Remarks

Before examining Oman's case to extend its continental shelf beyond 200 nautical miles in light of the provisions of Article 76 of the LOSC, it is worth at the outset giving a background of Oman as a coastal state from the perspective of its consideration to make a submission to the CLCS to establish the outer limits of the continental shelf. In terms of geography, Oman is situated in the south-eastern corner of the Arabian Peninsula in the western part of the Asian continent, between latitudes 16.40 and 26.30 N and longitudes 51.50 and 59.40 E²¹⁰. It has a coastline that stretches over 3165 kilometres from 'the Strait of Hormuz in the North to the Republic of Yemen in the South'²¹¹. This coastline overlooks, as illustrated in **Figure 8**, one gulf, one international strait, and two seas, and opposes and aligns with the coasts of four states; the Islamic Republic of Iran and the United Arab Emirates in

²¹⁰ See Geographic Location of Oman, Oman News Agency, available online at: <http://www.omannews.gov.om/ona/GeographicLocation.jsp> [last accessed 06/10/2014].

²¹¹ *Ibid.*

the North; the Islamic Republic of Pakistan in the North East; and the Republic of Yemen in the South West.

Figure 8: The geographic location of Oman.



Source: Oman News Agency, available online at:

<http://www.omannews.gov.om/ona/GeographicLocation.jsp> [last accessed 06/10/2014].

Obviously, as can be seen in **Figure 8** above, a delimitation of some of the maritime zones, depending on the distance and coastal characteristics that exist between the opposite and adjacent coasts, has to be made between Oman and its neighbouring countries in accordance with the delimitation rules of the LOSC and the general principles of the law of the sea. The areas that will be included in the submission to extend the continental shelf beyond 200 nautical miles shall be those that are not subject to delimitation with the above-named states and meet the requirements of Article 76 starting with the ‘test of

appurtenance'²¹². As regards the LOSC, Oman signed it on 1 July 1983 and was the 41st state to ratify or accede to it on 17 August 1989; being therefore one of the 60 ratifying or acceding States that brought the LOSC into force on 16 November 1994²¹³. Interestingly, before the commencement of UNCLOS III that led to the adoption of the LOSC on 10 December 1982, Oman issued a Royal Decree concerning the territorial waters, continental shelf and the exclusive fishing zone on 20 July 1972 in which it claimed sovereignty over its territorial waters up to 12 nautical miles from the baselines²¹⁴, sovereign rights over an exclusive fishing zone up to 38 nautical miles from the outer limits of the territorial waters²¹⁵, and sovereign rights over its continental shelf for the purpose of exploring and exploiting its natural resources²¹⁶. In addition, Article 4 of this Royal Decree stated that 'the continental shelf of the Sultanate shall include the seabed and natural resources that lie upon and beneath the seabed adjacent to the main landmass or the coast of an island, rock, reef, or shoal but outside the territorial waters of the Sultanate and up to a depth of 200 metres or further depths which allow for the exploitability of natural resources'. Obviously, the wording of this Article reflected those of the Geneva Convention on the Continental Shelf of 1958²¹⁷ and the prevailing state practice of the time²¹⁸. Article 9 of the Decree went on to state that an official notification of the entry into force of this law shall be sent to the secretariat of the UN Committee responsible for the peaceful uses of the seabed and subsoil of the oceans beyond national jurisdiction. This Royal Decree was amended by another Royal Decree No. 44/77 of 15 June 1977 in which the outer limits of the proclaimed exclusive zone were extended to the distance of 200 nautical miles seawards from the baselines from which the breadth of the territorial sea is measured²¹⁹. However, both Royal Decrees were repealed by another No. 15/81 on 10 February 1981 which, besides spelling out Oman's rights over the territorial sea²²⁰, internal waters²²¹ and the EEZ²²², provides that 'the Sultanate of Oman exercises sovereign rights over its continental shelf for the purposes of exploring and exploiting its

²¹² See footnote no. 51.

²¹³ See Consolidated Table of Signatures and Ratifications/Accessions of the LOSC, available online at DOALOS website at: http://www.un.org/depts/los/reference_files/status2010.pdf [last accessed 07/10/2014].

²¹⁴ See Articles 1 & 2.

²¹⁵ See Articles 5 & 6.

²¹⁶ See Article 3. It is noteworthy here that the translation of the provisions of Royal Decrees in this paper from the Arabic language to the English language represents the author's effort and does not reflect an official translation made by the Government of the Sultanate of Oman.

²¹⁷ See footnote no. 40.

²¹⁸ See footnote no. 19.

²¹⁹ See Article 1 (1).

²²⁰ See Articles 1 & 2.

²²¹ See Article 3.

²²² See Articles 4 & 5.

natural resources'²²³ and it 'will be issuing a declaration for delimiting the span of its continental shelf'²²⁴. During a general debate, on 10 July 1974, at UNCLOS III, Oman's delegate criticised the definition of the continental shelf that was adopted in the 1958 Continental Shelf Convention stating that 'most of the States present at the Conference had not participated in the definition of the principles endorsed by the 1958 Geneva Conventions, including the concept of the continental shelf. For many delegations, the criterion of exploitability was doubtless, ambiguous and even dangerous'²²⁵. By comparison with the former Decrees, Royal Decree No. 15/81 reflected the outcome of UNCLOS III and the compromise reached by the participating states therein regarding the continental shelf as it abolished the use of '200 metres depth' and 'exploitability' criteria to determine the outer limits of the continental shelf. The language used in the latter is relatively broad and left the determination of the extent of the continental shelf to a later stage. The ratification of the LOSC on 17 August 1989 by Royal Decree No. 67/89, through which it gained the force of law in Oman pursuant to Article 3 of the Law Regulating the Executive Body of the State of the year 1975 issued by Royal Decree No. 26/75²²⁶, achieved this purpose.

Following the entry into force of the LOSC, establishment of the CLCS and adoption of its ROP and the Guidelines, and in accordance with SPLOS/72 regarding the date of commencement of the 10-year period for making submissions to the CLCS²²⁷, and SPLOS/183 regarding the workload of the CLCS and the ability of states, particularly developing states, to fulfil the requirements of article 4 of annex II to the LOSC, as well as the decision contained in SLPOS/72²²⁸, Oman submitted, as illustrated in **table 2** above, preliminary information on 15 April 2009 to the Secretary General of the UN indicative of the outer limits of its continental shelf beyond 200 nautical miles and a description of the status of preparation and intended date of making a submission. Furthermore, the preliminary information stated that 'the Sultanate of Oman confirms that it is actively involved in preparing such a submission and plans to present its submission within a period of 10 years

²²³ *Ibid.*, Article 6.

²²⁴ *Ibid.*, Article 7.

²²⁵ Cited in Ahmad Razavi, *Continental Shelf Delimitation and Related Maritime Issues in the Persian Gulf* (The Hague, Kluwer Law International, 1997) at p. 96.

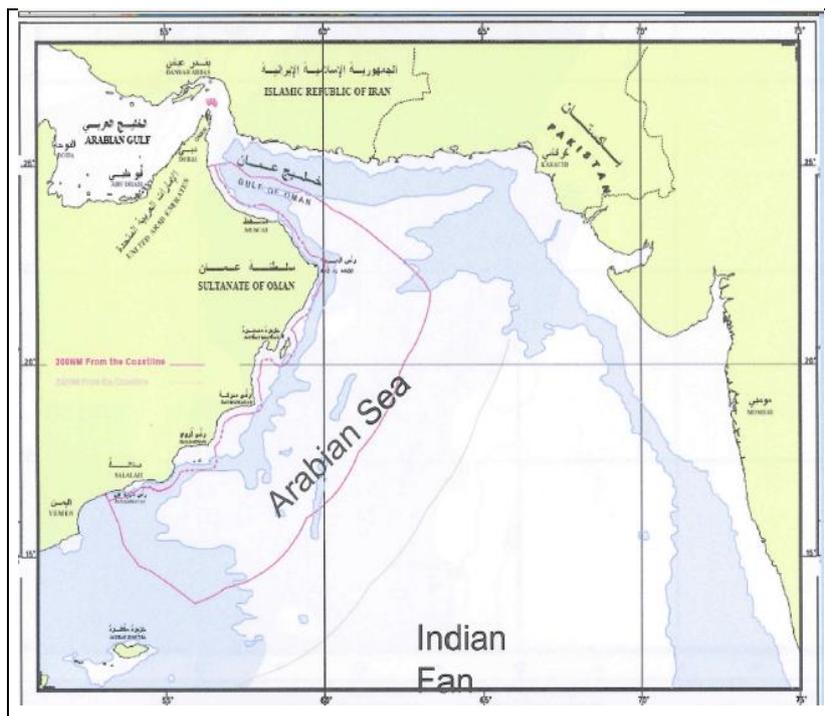
²²⁶ This status was further enhanced following the issuance in 1996 of the Basic Statute of the State in which Article 76 provides that 'treaties and agreements shall not have the force of law except after their ratification. In no case shall treaties and agreements have secret terms contradicting their declared ones'. The Basic Statute of the State is commonly referred to as the 'constitution' which was issued by Royal Decree No. 101/96 on 6 November 1996, available online at: <http://www.mola.gov.om/eng/basicstatute.aspx> [last accessed 08/10/2014].

²²⁷ See footnote no. 130.

²²⁸ See footnote no. 138.

from May 2009²²⁹. The intended area of the submission, as provided in the preliminary information, includes the narrow bathymetric shelf adjacent to the land mass of Oman, the Owen basin, and the Owen Ridge, that abuts the deep ocean floor of the Arabian Sea (Indian fan)²³⁰ which ‘lies between the southern-most point on the Oman-Pakistan boundary in the north and the eastern-most point on the Oman-Yemen boundary in the south’²³¹. **Figure 9** illustrates this area. That being said, this chapter intends to examine the expected submission by Oman in light of the preliminary information it submitted in 2009 against: first, the provisions of Article 76 and the Guidelines in terms of defining the outer limits of its continental shelf; and second, the submissions made by opposite and adjacent neighbouring states, and the recommendations provided by the CLCS to some of the submissions which share a feature similar to that of Oman’s continental margin.

Figure 9: The intended area of Oman’s submission as provided in its preliminary information.



²²⁹ See Part I of the Executive Summary, at p. 1.

²³⁰ *Ibid.*

²³¹ See Part III (d) of the Executive Summary, at p. 4.

Source: Executive Summary of Oman’s preliminary information, figure 1.

4.1. Defining the outer limits of the continental shelf

4.1.1. Baselines

Throughout the provisions of Article 76 of the LOSC, the term ‘beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured’ is used consistently in defining the outer limits of the continental shelf beyond 200 nautical miles²³². Likewise, ‘from the baselines’ is also used by the LOSC to determine the breadths of the territorial sea, contiguous zone and the EEZ. Therefore, the baselines constitute the reference point from which the outer limits of the continental shelf beyond 200 nautical miles shall be calculated and delineated by the coastal state²³³. Although the CLCS ‘is not entitled by the Convention to issue any recommendations with respect to the delineation of the baselines from which the breadth of the territorial sea is measured’²³⁴, it may make a potential request ‘for information about the geodetic position and definition of the baselines used in a submission made by a coastal state’²³⁵. According to the Guidelines, the CLCS might request geodetic information about baselines in only two instances; ‘first, it must be satisfied that the test of appurtenance has been positively met; secondly, if the 350 nautical miles limit is employed as a constraint in a submission, the CLCS might also find it useful to make recommendations in relation to the methodology employed in the delineation of this limit’²³⁶. Furthermore, during the consideration of a submission, the CLCS may request the following geodetic information about baselines; ‘source of the data; positioning survey technique; time and date of the survey; corrections applied to the data; a priori or a posteriori estimates of random and systematic errors; geodetic reference system; and geometric definition of straight, archipelagic and closing lines’²³⁷. Generally speaking, since the outer limits of a coastal state’s entitlement to a continental shelf beyond 200 nautical miles are dependent on the ‘continental margin’ criterion as envisaged in Article 76, whatever the methodology used by the coastal state to determine the location of the baselines, it does not play a significant role in the actual extent of such entitlement.

²³² See paragraph 1 and paragraph 4 (a), (5), (6), (7) and (8).

²³³ According to paragraph 3.4.9. of the Guidelines, ‘[...] those States aiming to achieve the highest standards of accuracy in the determination of their outer limits should focus first on the accuracy of their baselines’.

²³⁴ See paragraph 3.3.1. of the Guidelines

²³⁵ *Ibid.*

²³⁶ See paragraph 3.3.2. of the Guidelines.

²³⁷ See paragraph 3.3.9. of the Guidelines.

Notwithstanding that, it is important for the coastal state to delineate the baselines from which the territorial sea is measured as a first step knowing that the information included in its submission shall be transferred into geodetic datum to be reviewed by the CLCS and eventually due publicity to be given to the recommended outer limits on charts and lists of geographical coordinates. Most coastal states have undoubtedly done so when they delineated the outer limits of their territorial sea and other maritime zones, if they have been proclaimed, namely the contiguous zone and the EEZ; consequently, these states have lifted the burden off their shoulders of the need to conduct new studies to determine the location of the points making their baselines if they have the intention to make a submission to extend the outer limits of their continental shelves beyond 200 nautical miles from these baselines. However, this does not exclude the fact that an amendment of the baselines might be needed to reflect any changes that might have occurred since their delineation. According to the LOSC, there are three types of baselines whose application depends on the geographic characteristics and shape of the coastline. The first one is the 'normal baseline' which is identified by the low-water line along the coast, and in the case of islands situated on atolls or of islands having fringing reefs, the seaward low-water line of the reef²³⁸. The second type is 'straight baselines' which are drawn by joining appropriate points in localities where the coastline is deeply indented or cut into, or if there is a fringe of islands along the coast in its immediate vicinity²³⁹, or the coastline is highly unstable because of the presence of a delta or other natural conditions²⁴⁰, or the presence of mouths of rivers or bays²⁴¹. This type of baselines was first recognized in the *Anglo-Norwegian Fisheries* case of 1951 where the ICJ held that the straight baseline system used by Norway to connect the outermost points of countless islands, islets, rocks and reefs known as the *skjaergaard* is in conformity with international law²⁴². The last type of baselines is the 'archipelagic baselines' which are drawn by straight lines 'connecting the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1'²⁴³. Examples of archipelagic states where these baselines can be applied are, *inter alia*, Indonesia, and the Philippines. **Figure 10** illustrates these types of the baselines.

²³⁸ See Articles 5 and 6 of the LOSC respectively.

²³⁹ See Article 7 (1) of the LOSC.

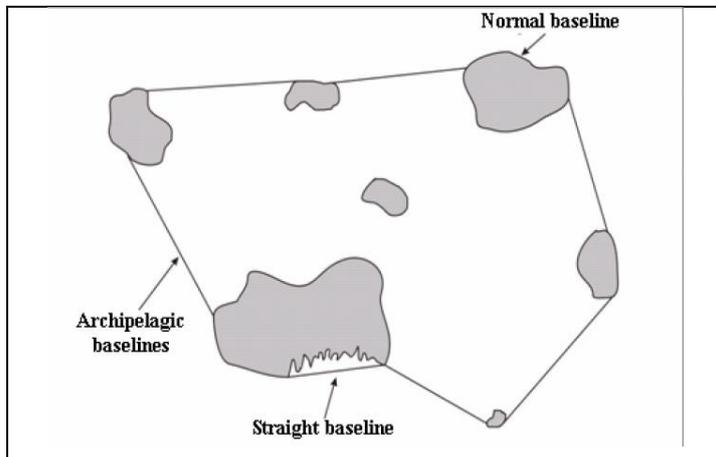
²⁴⁰ See Article 7 (2) of the LOSC.

²⁴¹ See Articles 9 and 10 of the LOSC respectively.

²⁴² [1951], judgment, ICJ Rep. 116.

²⁴³ See Article 47 (1) of the LOSC.

Figure 10: The three types of the baselines as envisaged in the LOSC.



Source: I Made Andi Arsana, ‘The Delineation of Indonesia’s Outer Limits of its Extended Continental Shelf and Preparation for its Submission: Status and Problems’, UN-Nippon Foundation Fellowship Programme 2007-2008, at p. 17.

On the basis of the referred to types of baselines, every coastal state applies the one that suits best its coastline²⁴⁴. With respect to Oman, Royal Decree No. 38/82 on the methodology of using straight baselines to determine the baselines for the territorial sea, internal waters, and enclosed areas was issued on 22 May 1982 in which it is stated that ‘in application of Article 2 (c) of Royal Decree No. 15/81²⁴⁵, straight baselines shall be fixed for any part of the Sultanate and the lines for enclosed waters lying between bays and gulfs as well as the waters in between islands and the mainland coast in accordance with the attached document to this decree’²⁴⁶. The latter, pursuant to Article 2 of the Royal Decree and in fulfilment of Article 16 (2) of the LOSC, was deposited with the Secretary of the UN by Notice of 1 June 1982 (94) (1) from the Minister Responsible of Foreign Affairs in the

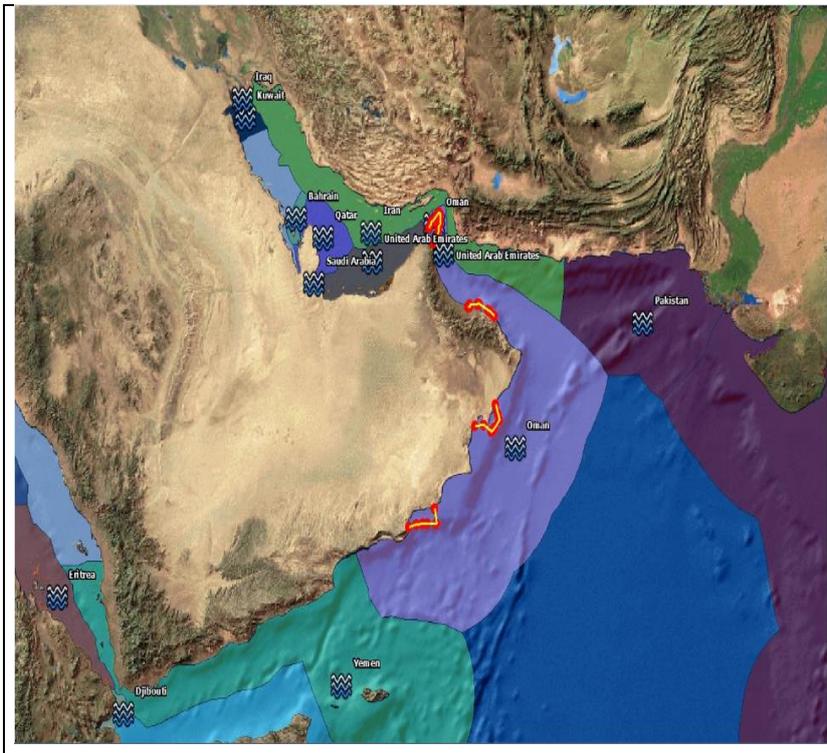
²⁴⁴ Article 14 of the LOSC also provides that ‘the coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions’.

²⁴⁵ See footnote no. 220 . Paragraph (c) of Article 2 of Royal Decree No. 15/81 provides that ‘the Government of the Sultanate of Oman will be issuing a directive in which the application of the system of straight baselines will set forth and which will, in accordance thereof, determine the baselines for any part of the coast of the Sultanate of Oman, so also the lines relating to the closed waters lying within gulfs and bays or in between islands and the mainland coast. Any line described therein will be regarded as the baseline. Provided it is so required, the Government of the Sultanate of Oman may amend or revoke any provisions which will be promulgated under this clause’.

²⁴⁶ See Article 1.

Government of the Sultanate of Oman²⁴⁷. This Notice, as in the Royal Decree, identified four areas along the coast of Oman on which straight baselines are delineated through coordinates of latitudes and longitudes. **Figure 11** illustrates these areas and the coordinates of latitudes and longitudes used to draw the straight baselines.

Figure 11: The four areas along the coast of Oman on which straight baselines are delineated²⁴⁸.



Source: adapted by the author from google earth.

As it can be seen from the **Figure** above, the drawn baselines do not cover the whole coastline of Oman. They mainly connected the outermost points of a fringe of islands along the coast in its immediate vicinity in four different areas. In its preliminary information, Oman stated that ‘the application of the straight baselines system in the Sultanate of Oman

²⁴⁷ See national legislation, DOALOS, available online at: http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/OMN_1982_Notice.pdf [last accessed 08/10/2014].

²⁴⁸ For the sake of illustration, the dots in red colour are the base points whereas the lines in yellow constitute the straight lines used to connect the base points.

was issued by a notice of 1 June 1982 of the Government of the Sultanate of Oman. In addition to the notice, a baselines database has been established from the largest available navigation charts and maps for the whole coast of Oman. However, these will need to be updated for the final submission²⁴⁹. And whereas the intended area of the submission, as illustrated in **figure 9** above, ‘lies between the southern-most point on the Oman-Pakistan boundary in the north and the eastern-most point on the Oman-Yemen boundary in the south’, priority should be given therefore to this area in the preparation of the submission. Two of the four coastal areas covered by straight baselines, as mentioned above, are located in the intended area of the submission which indicates that for the rest of coastline within this area, the normal baseline system might be applied except in those areas where gulfs and bays exist²⁵⁰. Given that, drawing the rest of the baselines is not going to constitute a complex task particularly when a baseline database is already available which needs only to be updated. However, attention should be paid to the above-mentioned requests that might be made by the CLCS and the need to transfer the base points of the drawn baselines into geodetic datum. Moreover, the CLCS, in accordance with established state practice, ‘shall accept the definition of straight, closing and archipelagic baselines as either geodesics or loxodromes, and only one line definition can be consistently selected by a submitting state for all of its baselines’²⁵¹. Also, the CLCS ‘strongly discourages the use of apparent straight lines as literally drawn on various paper nautical charts employing a variety of map projections’²⁵². With respect to the normal baseline system, although the LOSC does not provide guidance to the exact meaning of the term ‘low water line’, the CLCS ‘feels that there is a uniform and extended state practice which justifies the acceptance of multiple interpretations of the low water line and all of them are regarded as equally valid in a submission’²⁵³. In addition, the outer limits can be determined by means of the methods of traces parallels from straight baselines and/or envelopes of arcs from normal baselines²⁵⁴. Having said that, taking these points into account during the preparation of the submission will reduce the errors that might occur in applying the formula and constraint lines laid down in Article 76, calculating precisely the distance of the outer limits, and avoiding any requests from the CLCS for further information.

4.1.2. Foot of the Continental Slope

²⁴⁹ See Part III (c) of the Executive Summary, at p. 3.

²⁵⁰ This conclusion can be drawn from Article 2 (b) of Royal Decree No. 15/81, which was issued on 10 February 1981.

²⁵¹ See paragraph 3.3.8. of the Guidelines.

²⁵² *Ibid.*

²⁵³ See paragraph 3.3.5. of the Guidelines.

²⁵⁴ See Module II (Geodetic Methodologies) of DOALOS Manual, at pp. II-34 – II-47.

After the coastal state establishes that its continental shelf extends beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin and before applying the ‘test of appurtenance’ that determines its entitlement to extend its continental shelf beyond 200 miles by making a submission to the CLCS, it has to identify the location of the foot of the continental slope within its continental margin. The rationale behind this is that the two formula lines (Gardiner and Hedberg), which constitute the ‘test of the appurtenance’, are measured from the foot of the continental slope. Also, the CLCS ‘recognizes that the foot of the continental slope is an essential feature that serves as the basis for entitlement to the extended continental shelf and the delineation of its outer limits’²⁵⁵. Article 76 provides that ‘in the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base’²⁵⁶. Therefore, a dual regime is provided for the identification of the location of the foot of the continental slope. The first one is ‘the point of maximum change in the gradient at the continental slope’s base’. This applies in the ideal situations where the three components of the continental margin (see **figure 5** above) can be clearly determined and by following two steps; ‘first, the identification of the region defined as the base of the continental slope; and second, the determination of the location of the point of maximum change in the gradient at the base of the continental slope’²⁵⁷. To identify the former, bathymetric and geological data will be used, whereas for the latter only bathymetric information will be used²⁵⁸.

The other one is ‘evidence to the contrary to the general rule’ which is ‘designed to allow coastal states to use the best geological and geophysical evidence available to them to locate the foot of the continental slope at its base when the geomorphological evidence given by the maximum change in the gradient does not or cannot locate reliably the foot of the continental slope’²⁵⁹. Such a situation occurs in scenarios when the curvature of the seabed along the base of the continental slope is constant and where the maximum change in the gradient may not clearly render the location of the foot of the slope at its base due to irregular seabed topography that reveals a number of local maxima in the change of the gradient at the

²⁵⁵ See paragraph 5.1.1. of the Guidelines.

²⁵⁶ See paragraph 4 (b) of Article 76 of the LOSC.

²⁵⁷ See paragraph 5.1.3. of the Guidelines. Also, ‘for the purpose of identifying the region defined as the base, the CLCS defines the continental slope as the outer portion of the continental margin that extends from the shelf edge to the upper part of the rise or to the deep ocean floor where a rise is not developed. The rise, in turn, is the wedge-shaped sedimentary body having a smaller gradient than the continental slope’. *Ibid*, paragraph 5.4.4. . The CLCS also ‘defines the base of the continental slope as a region where the lower part of the slope merges into the top of the continental rise, or into the top of the deep ocean floor where a continental rise does not exist’. *Ibid*, paragraph 5.4.5.

²⁵⁸ See paragraph 5.2.1. of the Guidelines.

²⁵⁹ See paragraph 6.3.1. of the Guidelines.

base of the slope²⁶⁰. In these scenarios, ‘geological evidence may be introduced as an alternative for determining the location of the foot of the continental slope at its base’²⁶¹ noting though that invoking such evidence by coastal states will be regarded as an exception by the CLCS²⁶². Moreover, the latter recognizes that difficulties might arise from invoking this evidence as the boundary separating the continental crust from the oceanic crust may not be clearly defined owing to a variety of tectonic and geological reasons²⁶³. And to simplify the matter for coastal states, the Guidelines provide a list of types of continental margins to which it might be applicable²⁶⁴.

Either way, the coastal state shall furnish the CLCS with information of the methodologies used to locate the foot of the continental slope. Furthermore, the CLCS will require a full technical description of ‘the bathymetric database used in the implementation of the first evidence’²⁶⁵ and of ‘the geological and geophysical database’ if evidence to the contrary is invoked²⁶⁶. In light of the foregoing, Oman, in its preliminary information, affirmed, first of all, that ‘there is continuous prolongation from the territory of the Sultanate of Oman, across a relatively narrow bathymetric shelf and the large plateau of the Owen Basin, to the boundary with the deep ocean floor of the Arabian Sea marked by the Owen Ridge. The Owen Basin is morphologically continuous with the Omani landmass, and exhibits characteristics typical of the continental crust’²⁶⁷. And although the Owen Basin, the main feature of the southeast Oman continental shelf, is ‘a large faulted plateau of relatively smooth seafloor between 3000 and 3500 m depth adjacent to the South East coast of Oman’²⁶⁸, ‘geological and geophysical data gathered in the basin show that the crustal structure and composition of the Owen Basin are characteristic of continental rather than oceanic crust, and that it shares the geological characteristics of the Omani landmass’²⁶⁹. The Owen Basin is bounded to the east by the Owen Ridge which is ‘an asymmetric feature with a moderately dipping western flank and an extremely steep eastern flank’ and to the south ‘by

²⁶⁰ See paragraphs 6.3.2. and 6.3.3. of the Guidelines.

²⁶¹ See paragraph 6.3.4. of the Guidelines.

²⁶² See paragraph 5.4.12 of the Guidelines.

²⁶³ See paragraph 6.2.4. of the Guidelines.

²⁶⁴ See paragraph 6.2.6. to paragraph 6.3.13. of the Guidelines.

²⁶⁵ See paragraph 5.2.3. of the Guidelines.

²⁶⁶ See paragraph 6.4.1. of the Guidelines.

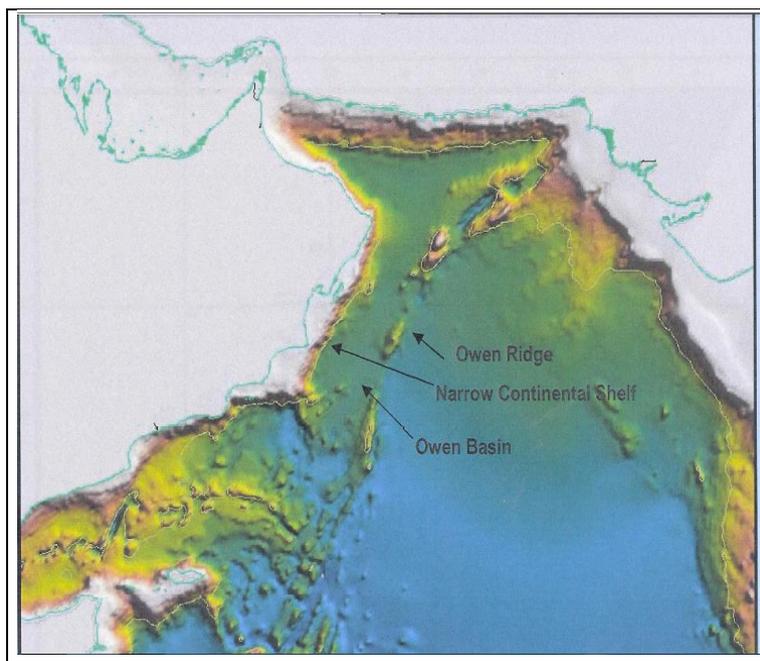
²⁶⁷ See Part II of the Executive Summary, at p. 1.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*, at p. 2. These data are listed in the Executive Summary. *Ibid.*

a discontinuous line of seamounts that constitute the Sharbithat Ridge²⁷⁰. **Figure 12** illustrates these features and the Owen Basin.

Figure 12: The Owen Basin and its connected features.



Source: Executive Summary of Oman’s Preliminary Information, figure 1.

On the basis of the geological and geophysical evidence, the foot of the continental slope, according to the preliminary information, can be identified along the eastern flank of the Owen Ridge²⁷¹. However, the preliminary information does not identify the precise location of the points of the foot of the continental slope nor does it delineate them by using mathematical analyses of either two or three dimensional methodologies or both to produce a continuous trace of them as required by the Guidelines²⁷². In addition, ‘the northern limit of Owen Basin is not clearly demarcated but is interpreted to lie near latitude 22 N, the boundary with the Sea of Oman’²⁷³, as well as that the points of the foot of the slope along the Sharbithat Ridge are not identified yet. This is obviously attributed to the ‘indicative’ nature of the preliminary information which in the case of Oman, as stated in Part III therein,

²⁷⁰ *Ibid.*

²⁷¹ *Ibid.*, at p. 3.

²⁷² See paragraph 5.4.7. to paragraph 5.4.11. of the Guidelines

²⁷³ See Part II of the Executive Summary, at p. 2.

was based, *inter alia*, on a desktop study done in 2002 and other information acquired ever since as well as bathymetric data. Consequently, further collection and analysis of scientific data are necessary to determine the exact location of every point of the foot of the continental slope, and the methodology to be used for that. Subsequently, every location should be transferred into geodetic datum. Also, as the Owen Ridge is characterised by extensive faulting and complex morphology, and the Sharbithat Ridge is discontinuous, evidence to the contrary may be invoked, if necessity requires, in case the point of maximum change in the gradient at the base of the continental slope cannot be identified. In any case, attention should be paid to the possibility that, as mentioned above, the CLCS will ask for information and a technical description of the evidence that has been invoked to determine the location of every foot of the continental slope²⁷⁴. The latter will also be one of the items that will be presented to the CLCS by the coastal state in its initial session before establishing a sub-commission to review the submission²⁷⁵. Furthermore, besides having the right to request the full disclosure of the original information, the information submitted will go through filtering and smoothing, as illustrated in the Guidelines, by the CLCS in order to facilitate the identification of the location of the foot of the continental slope²⁷⁶. Having said that, Oman is obviously required to complete the preliminary information it submitted regarding the foot of the continental slope by identifying the precise location of every foot of the continental slope based on which the formula lines will be delineated with the aim to meet positively the ‘test of appurtenance’. By looking at the methodologies involved, doing so is clearly a complex task; nonetheless, it is a step that subsequently paves the way, during the preparation of the submission, for the application of the other requirements of Article 76 and delineation of the outer limits of the continental shelf.

4.1.3. Formula Lines

As stated above, identifying the precise location of the foot of the continental slope will facilitate the application of the formula lines. Oman, in its preliminary information, identified it along the eastern flank of the Owen Ridge. Moreover, it can be said that it will also be located along the eastern side of the Sharbithat Ridge since the Owen Basin is

²⁷⁴ See footnotes No. 265 and 266.

²⁷⁵ See Article 2 (a) of Annex III (Modus Operandi) to the ROP.

²⁷⁶ See paragraph 5.3.

morphologically continuous with the Omani landmass, and exhibits characteristics typical of the continental crust. The two formula lines, as provided in Article 76 of the LOSC, 'shall be either:

- (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope (Gardiner formula); or
- (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope (Hedberg Formula)'.

Therefore, employing either one of the two formulas, the one that is more advantageous to the coastal state, will suffice to satisfy the test of appurtenance. After establishing the natural prolongation and identifying the location of the foot of the continental slope, Oman's preliminary information goes on to state that 'based on the above and on the application of the 1% sediment thickness formula contained in article 76 (4) (a) (i), the preliminary indicative outer limit of the Omani continental shelf extends to the constraint lines'²⁷⁷. Apparently therefore, one formula was invoked by Oman when it prepared the preliminary information of the outer limits of its continental shelf.

According to Gardiner as quoted in the Guidelines, 'the sediment thickness formula is based on a model in which the sediments of the rise thin gradually in a seaward direction. This model links the outer limit of the rise to the thickness of the sediments beneath it'²⁷⁸. Generally speaking, 'the basement of the sediment wedge can be oceanic, continental or a combination of both. In the simplest cases, the sediments of the rise rest on oceanic basement all the way from the foot of the continental slope'²⁷⁹. To determine the thickness of the sediments, there are different means which vary in terms of complexity, methodology and cost, such as drilling, bathymetric and seismic reflection and refraction measurements, gravity, and magnetics²⁸⁰. The data provided by seismic reflection and seismic refraction surveys will be regarded by the CLCS as the primary source of evidence for mapping and

²⁷⁷ See Part II of the Executive Summary, at p.3.

²⁷⁸ See paragraph 8.1.3. of the Guidelines. The latter also provides that 'the sediment thickness at any location on the continental margin is the vertical distance from the sea floor to the top of the basement at the base of the sediments, regardless of the slope of the sea floor or the slope of the top basement surface'. See paragraph 8.1.8.

²⁷⁹ See paragraph 8.2.15 of the Guidelines.

²⁸⁰ See paragraph 8.2. of the Guidelines.

determining the sediment thickness whereas magnetic and gravimetric data may be provided at all times as complementary sources of evidence²⁸¹.

That being said, to the eastern side of the location of the foot of the continental slope, identified by Oman in its preliminary information, along the eastern flank of the Owen ridge lies the deep ocean floor of the Arabian Sea (Indian fan). The latter is of a great depth; therefore, a combination of the means referred to above might be necessary to be employed by Oman in calculating and mapping the 1% thickness of the sediments from the nearest point of the foot of the continental slope. Some of these means have already been relied on by Oman, in its preliminary information²⁸², to establish the natural prolongation of its continental margin to the Owen Basin in a way that matches those contained in paragraph 8.2.2. of the Guidelines. Whatever means is employed, the survey must be designed to prove the continuity of the sediments by fixed points to the foot of the slope and the data collected must be documented²⁸³. The fixed points shall then be delineated, in accordance with paragraph 7 of Article 76, by straight lines not exceeding 60 nautical miles in length and defined by coordinates of latitude and longitude. The latter obviously requires the transfer of the outermost location of the fixed points into geodetic datum as for the measurement between the fixed points and the nearest point of the foot of the slope. Likewise, the estimation of sediment thickness requires the documentation and depth conversion of the interpreted profiles and maps of the sea floor²⁸⁴. Having said that, it is apparent that possessing the knowledge to put the above mentioned into practice is the most determining factor which will play a significant role in reducing the errors that might occur in calculating the sedimentary thickness, knowing that all data will be thoroughly verified by the CLCS.

On the other side, Oman might also, based on the collection and analysis of data during the preparation of the submission, opt to employ the Hedberg formula which is identified by '60 nautical miles from the foot of the continental slope' in the case it is more advantageous, compared to the '1% sediment thickness formula', in drawing the outer envelope line. Generally speaking, employing either formula will depend on the structure and composition of the 'continental margin'. As mentioned above, the Owen and Sharbithat ridges, along whose eastern sides the foot of the slope is located, are characterised by faults; therefore, employing both formulas is expected. In contrast with its counterpart in terms of complexity and the methodologies involved, the Hedberg formula is obviously easier since its fixed

²⁸¹ See paragraph 8.2.1. of the Guidelines.

²⁸² See Part II of the Executive Summary, at p. 2.

²⁸³ See paragraph 8.2.21. of the Guidelines.

²⁸⁴ See paragraph 8.3.1. of the Guidelines.

points are delineated by a distance measurement of 60 nautical miles from the foot of the continental slope. However, these fixed points are also required to be delineated, in accordance with paragraph 7 of Article 76, by straight lines not exceeding 60 nautical miles in length and to be transformed into geodetic datum and documented. Eventually, drawing the formula line will enhance Oman's preliminary information regarding the satisfaction of the 'test of appurtenance', and allows for the final delineation of the outer limits of the continental shelf.

4.1.4. Constraint Lines

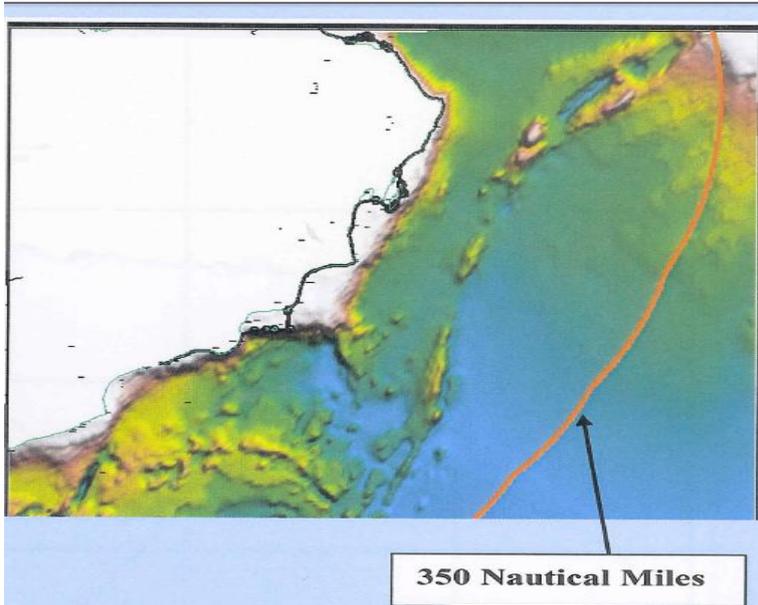
As illustrated in chapter two, the two lines drawn by the formulas are subject to two constraints. Paragraph 5 of Article 76 states that 'the fixed points comprising the line of the outer limits of the continental shelf on the seabed, drawn in accordance with paragraph 4 (a) (i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres'. Therefore, the first constraint is identified by a maximum distance of 350 nautical miles from the baselines whereas the other by a maximum distance of 100 nautical miles from the depth of 2,500 metres. Similarly to the formulas, either one of these constraints can be employed by the coastal state which will most likely be the one that renders more advantage in drawing the outer envelope beyond which the continental shelf cannot extend provided it is satisfied. Despite that, 'the outer envelope of the constraints does not provide *per se* the basis for entitlement to an extended continental shelf. It is solely a constraint placed over the envelope line produced by the formula in order to delineate the outer limits of the continental shelf'²⁸⁵.

With respect to Oman's preliminary information, it is stated that 'both the 350 nautical miles and the 2,500 metre isobath plus 100 nautical miles constraint lines have been identified, but may need to be updated for the final submission'²⁸⁶. **Figure 13** illustrates the line of the 350 nautical miles constraint whereas **figure 14** illustrates the 2,500 metre isobath plus 100 nautical miles constraint.

Figure 13: The 350 nautical miles constraint as drawn in Oman's preliminary information

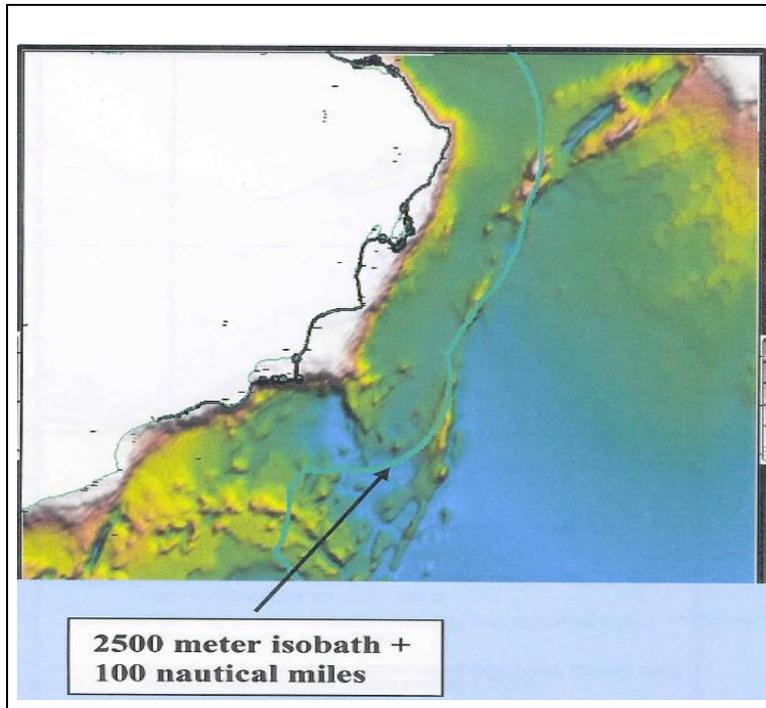
²⁸⁵ See paragraph 2.1.9. of the Guidelines.

²⁸⁶ See Part III (e) of the Executive Summary, at p. 4.



Source: Executive Summary of Oman's preliminary information, figure 6.

Figure 14: the 2,500 metre isobath plus 100 nautical miles constraint as drawn in Oman preliminary information.



Source: Executive Summary of Oman's preliminary information, figure 6.

Obviously, the 350 nautical miles constraint is more advantageous as long as it is satisfied since it stretches over the Indian fan whereas the 2,500 metre isobath plus 100 nautical miles constraint is located on the Owen and Sharbithat ridges. In this case, the limitation on submarine ridges as spelled out in paragraph 6 of Article 76 will not affect the submission as it applies only when the 350 nautical miles constraint line is the less advantageous²⁸⁷. The same will be true even if during the collection and analysis of data, it was found that the Owen and Sharbithat ridges have the characteristics of submarine elevations rather than ridges. If the two ridges are geologically connected with the Owen Basin and the land mass of Oman and situated within the foot of the slope, there is a possibility that, if supporting data are collected, the Owen and Sharbithat ridges to be closer to the classification of submarine elevations²⁸⁸.

²⁸⁷ Paragraph 6 of Article 76 provides that 'notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs'.

²⁸⁸ Regarding this issue, see Article 7 of the Guidelines which describes the difference, even though no definition is provided in Article 76 of the LOSC, between the ridges and submarine elevations. See also

In terms of application, the ‘350 nautical miles constraint’ is less complex in comparison with the ‘2,500 isobath plus 100 nautical miles constraint’. The former requires only a distance measurement of points that are 350 nautical miles away from the baselines to be then delineated by a line and transformed into geodetic datum. This measurement enhances the point, as illustrated above, of the importance of having drawn baselines. On the other hand, the ‘2,500 isobath plus 100 nautical miles constraint’, similarly to the foot of the continental slope, requires the identification of fixed points at which the depth of water is 2,500 metres which varies from one area to another as a result of geological and tectonic processes shaping the present continental margin. The CLCS ‘will consider single- and multi-beam echo sounding measurements as the primary source of evidence for the delineation of the 2,500 metres isobath, and other admissible evidence provided by bathymetric and interferometric side-scan sonar measurements and seismic reflection-derived bathymetric measurements will be regarded as complementary information in general’²⁸⁹. Furthermore, a full technical description of the bathymetric database used in the delineation of the 2,500 metres depth including the time, date, and correction of data as well as the mathematical methodology employed to produce it shall be provided²⁹⁰. Once the points that meet the depth requirement are identified, they shall be then connected by a line and transformed into geodetic datum. Subsequently, the final constraint line will be delineated, using geodetic datum as well, by connecting the points at which the distance is 100 nautical miles from the 2,500 metres line.

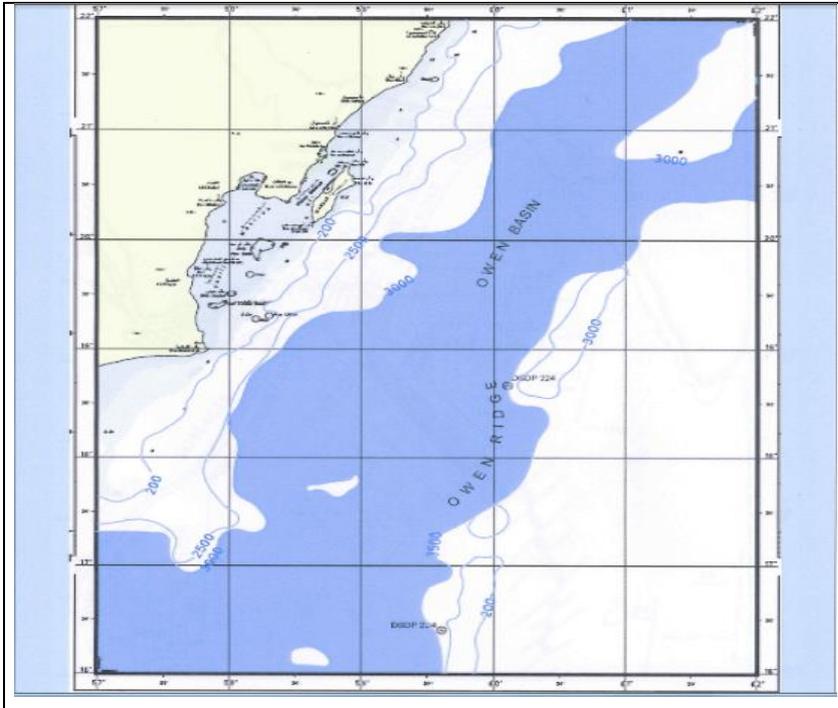
In the preliminary information, Oman identified the 2,500 metres isobath across the Owen basin not far from the narrow bathymetric shelf. It is stated, as mentioned above, that ‘the main feature of the southeast Oman continental shelf is the Owen Basin, a large faulted plateau of relatively smooth seafloor between 3000 and 3500 metres depth adjacent to the southeast coast of Oman’. **Figure 15** illustrates the depth of waters in the Owen Basin.

Figure 15: The depth of water in the Owen Basin as provided in Oman’s preliminary information.

DOALOS Manual, part VII, and Herald Brekke & Philip Symonds ‘Submarine Ridges and Elevations of Article 76 in light of Published Summaries of Recommendations of the Commission on the Limits of the Continental Shelf’ (2011) 42 *Ocean Development and International Law* pp. 289-306.

²⁸⁹ See paragraph 4.2.2. of the Guidelines.

²⁹⁰ See paragraph 4.2.7. and paragraph 4.3.2. of the Guidelines.



Source: Executive Summary of Oman’s Preliminary Information, figure 2.

In light of this, the final constraint line was delineated along the Owen and Sharbithat ridges as shown in **figure 14** above. However, both constraint lines may need, according to the preliminary information, to be updated for the final submission. In that case, besides paying attention to the abovementioned and taking into account of the appropriate provisions of the Guidelines, it might be useful, for Oman, to conduct the necessary surveys to identify the foot of the continental slope, 1% sediment thickness, and the 2,500 metres isobath through one surveying expedition instead of doing every step separately at different stages as the former will expedite the collection, analysis, documentation, and mapping of data for the preparation of the final submission, save time and reduce costs.

4.1.5. Delineating the outer limits of the continental shelf.

Having satisfied the ‘continental margin criteria’ as prescribed by Article 76, the coastal state will be able to delineate the outer limits of its continental shelf. Paragraph 7 of

the referred to Article states that ‘the coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitudes and longitudes’²⁹¹. The delineation shall be done, as illustrated in section 2 of chapter two, by the inner envelope of the outer envelope of the two formulas lines and the outer envelope of the two constraints lines. This inner envelope therefore determines the outer limit of the continental shelf beyond the distance of 200 nautical miles. The outer limit is delineated, pursuant to paragraph 7, by straight lines connecting fixed points not exceeding 60 nautical miles in length. Paragraph 7 also requires that the fixed points making the outer limit line to be defined by coordinates of latitude and longitudes. It is recommended as well to use a geodetic reference system recognized by the CLCS and third states such as the WGS84 to identify the positions of the fixed points to avoid the complexity of transforming the coordinates from one reference system to another during the submission²⁹². The CLCS also ‘highlights the value of the geodetic products made freely available to States by the International GPS Service’²⁹³.

Having said that, Oman stated in its preliminary information that ‘[...] the preliminary indicative outer limit of the Omani continental shelf extends to the constraint lines’²⁹⁴. The following **figure** illustrates the outer envelope or cut-off line of the two constraint lines identified by Oman.

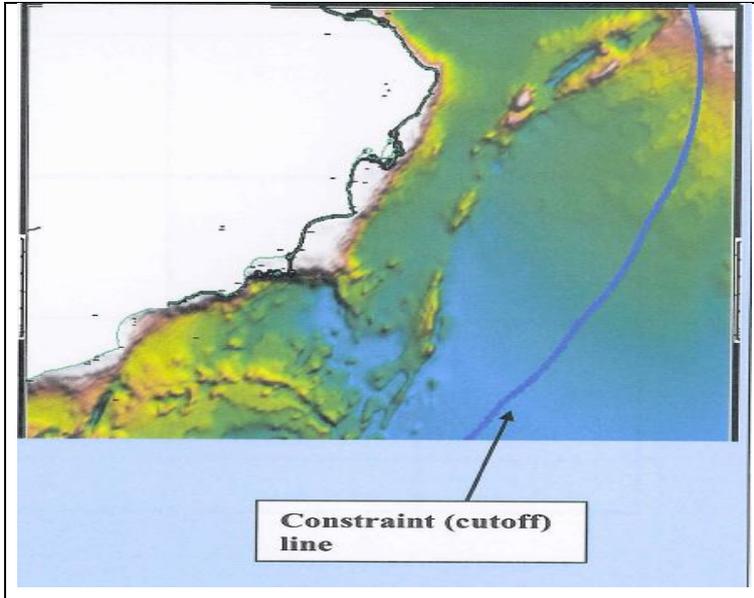
Figure 16: The outer envelope or cut-off line of the two constraint lines identified by Oman in its preliminary information.

²⁹¹ ‘These straight lines can connect fixed points located on one of, or any combination formed by, the four outer limits produced by each of the two formulas and the two constraints contained in article 76’. *See* paragraph 2.3.8. of the Guidelines.

²⁹² *See* paragraphs 3.2.16. – 3.2.18. of the Guidelines. It is also stated that ‘the surface of a geodetic reference ellipsoid associated with the reference system adopted by a coastal State in each submission shall be accepted by the CLCS to determine all distances in order to ensure the application of a uniform metric at all times’. *See* paragraph 3.2.5. of the Guidelines.

²⁹³ *See* paragraph 3.2.14. of the Guidelines.

²⁹⁴ *See* Part II of the Executive Summary, at p. 3.



Source: Executive Summary of Oman’s preliminary information, figure 6.

In light of the above, the preliminary information did not delineate the indicative outer limits of the continental shelf by applying the inner envelope of the outer envelopes of the formulas and constraint lines via the connection of fixed points by straight lines not exceeding 60 nautical miles in length, defined by coordinates of latitudes and longitudes. Obviously, this merely goes back to the preliminary information itself which is indicative in nature. The purpose of it, as decided in SPLOS/183²⁹⁵, is to satisfy the time period referred to in article 4 of annex II to the LOSC and the decision contained in SPLOS/72, paragraph (a), by submitting to the Secretary General of the UN information indicative of the outer limits of the continental shelf beyond 200 nautical miles and a description of the status of preparation and intended date of making a submission. To that end, Oman submitted its preliminary information indicating that the outer limit of its continental shelf extends to the constraint lines as illustrated above. In general terms, what is important is that the information submitted should include enough data showing that the outer limit of the continental shelf, pursuant to the provisions of article 76, extends beyond the distance of 200 nautical miles from the baselines.

²⁹⁵ See footnote no. 138.

Besides updating what needs to be updated, as stated in the preliminary information, regarding the baselines and constraint lines, it is necessary for Oman towards the completion of the submission to collect and analyse further scientific data to delineate precisely the outer limits of its continental shelf through a well-documented scientific study backed by the necessary evidences pursuant to the requirements of Article 76 and as prescribed by the Guidelines. Also, it is necessary to do so by adhering to the scientific methodologies and technical requirements prescribed by the CLCS in the Guidelines, albeit not binding, to avoid any complexity during the preparation and review of the submission.

4.2. Submissions by Neighbouring States and Recommendations for States Having a Continental Shelf Similar to that of Oman

Undoubtedly, the early submissions of coastal states and recommendations given to them by the CLCS set a trend for the later submissions by other states to follow and learn from. Despite the fact that the CLCS's role to review submissions shall be exercised in accordance with fixed rules which are applicable equally to all states, the whole process provides the latter with an opportunity to avoid the legal and technical mistakes of each other towards making a successful submission until the receipt of final recommendations from the CLCS. Specifically speaking, the attention paid should focus more on the submissions made by opposite and adjacent coastal states since their continental crusts are more likely to have closely emerged out of the same tectonic history, and on the submissions made by coastal states that have a continental shelf of similar characterises to the one of the concerned state. Based on that, it will be useful for Oman, towards making its submission to review the submission made by opposite and adjacent states, and of those states that have a continental shelf similar to its own as illustrated above.

4.2.1. Submissions by Opposite and Adjacent Neighbouring States

There are three coastal states opposite and adjacent to Oman which have made submissions to extend all or part of their continental shelves beyond 200 nautical miles with the CLCS. The first state is the Republic of Yemen which made a submission on 20 March 2009 in respect of the area south east of Socotra Island²⁹⁶. The consideration of the

²⁹⁶ See the submission made by the Republic of Yemen in respect of the area south east of Socotra Island, available online at DOALOS website at: http://www.un.org/depts/los/clcs_new/submissions_files/submission_yem.htm [last accessed 21/10/2010].

submission was included in the provisional agenda of the twenty-fourth session of the CLCS held from 10 August to 11 September 2009²⁹⁷. On 15 July 2010, the Republic of Yemen submitted to the CLCS, in accordance with Article 76, paragraph 8 of the LOSC, amended information on the limits of the continental shelf beyond 200 nautical miles from the baselines in respect of the aforementioned area²⁹⁸. **Figure 17** portrays the location of the Socotra Island, whereas **figure 18** illustrates the outer limit of the continental shelf south east of Socotra Island as provided by Yemen in the submission.

Figure 17: The location of Socotra Island.

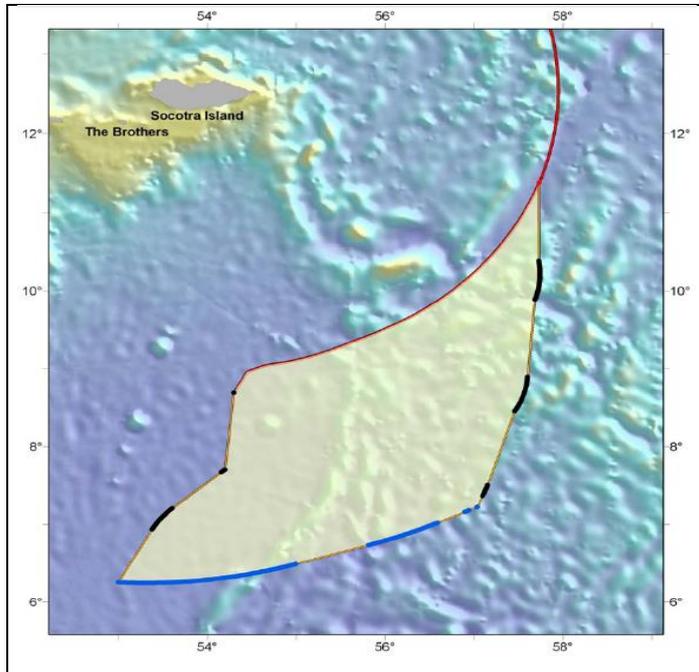


Sources: Catriona Davies, 'Socotra: Unspoiled Island Sanctuary Caught on Camera' (2012), available online at: <http://edition.cnn.com/2012/05/04/travel/socotra-island-yemen-wildlife/> [last accessed 21/10/2014].

Figure 18: The outer limit of the continental shelf south east of Socotra Island as provided by Yemen in its submission.

²⁹⁷ *Ibid.*

²⁹⁸ See the Executive Summary-Amended of the Republic of Yemen's Submission in respect of south east of Socotra Island, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/yem09/ROY_Executive_Summary_Amended.pdf [last accessed 21/10/2014].



Source: The Executive Summary-Amended of the Republic of Yemen’s Submission, figure 1 at p. 3.

In its submission, Yemen stated that ‘in accordance with paragraph 2 (a) of Annex 1 to the Commission’s Rules of Procedure, the Republic of Yemen wishes to inform the Commission that the area of continental shelf that is the subject of this submission is not subject of any dispute between them and any other state’²⁹⁹. However, the Transitional Federal Government of the Somali Republic sent a note verbale, on 19 August 2010, to the Secretary General of the UN stating that ‘the delimitation of the continental shelf between the Somali Republic and the Republic of Yemen has not yet been settled. There may therefore be a potential overlap between the areas of the continental shelf beyond 200 nautical miles claimed by the two coastal States. Unresolved delimitation issues between two coastal states, as well as any overlap between the areas of the continental shelf beyond 200 nautical miles claimed by them, should be considered by reference to rule 46 and Annex I of the Rules of Procedure of the Commission. For the purpose of article 5 (a) of Annex I of the Rules of Procedure such unresolved delimitation issues should be considered as a ‘maritime

Ibid, Article 2, at p. 2. ²⁹⁹

dispute”³⁰⁰. On that basis, the Somali Government requested the CLCS, pending agreement or understanding to settle the areas under dispute, not to take any steps that would prejudice any future bilateral delimitation in the maritime area concerned³⁰¹. Following the presentation made, on 20 August 2010, by the Republic of Yemen’s delegation to the CLCS, and taking into account the note verbale from the Somali Government referred to above, the CLCS ‘decided to defer further consideration of the submission and the communication until such time as the submission would be next in line for consideration as queued in the order in which it was received’³⁰². At the time of writing, no further developments have occurred to the submission and it is still on deferral. The area of submission as identified by Yemen and illustrated above in **figure 18** takes a south eastern direction which lies far from the southern part of the Omani coast and intended area of submission. Nonetheless, notice should be taken that reaching an agreement or understanding with an adjacent or opposite state prior to making a submission is of great benefit in case there might be a potential dispute or overlap of maritime zones between the concerned states.

The second state is the Islamic Republic of Pakistan whose coast stretches opposite to the north eastern coast of Oman. It lodged a submission with the CLCS on 30 April 2009 the consideration of which was included in the provisional agenda of the twenty-fourth session of the CLCS that was held from 10 August to 11 September 2009³⁰³. However, in line with its preference, Pakistan did not make a presentation of its submission until 16 August 2013 during the thirty second session of the CLCS held from 15 July-30 August 2013³⁰⁴. The rationale behind that might be due to the note verbale sent on 07 August 2009 by the Permanent Mission of Oman to the UN to the Secretary General of the UN in which it submitted, by reference to Oman’s preliminary information, a ‘national right reservation’ on the continental shelf submission of Pakistan stating that ‘the area of Oman’s forthcoming submission includes and not limited to the same area which the Islamic Republic of Pakistan has submitted its claim. It is, therefore, essential that the Islamic Republic’s submission is not considered until the Sultanate of Oman has completed and submitted its continental shelf

³⁰⁰ See the note verbale of the Transitional Federal Government of the Somali Republic, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/yem09/som_re_yem_clcs18.pdf [last accessed 21/10/2014] at p. 1.

³⁰¹ *Ibid*, at p. 2.

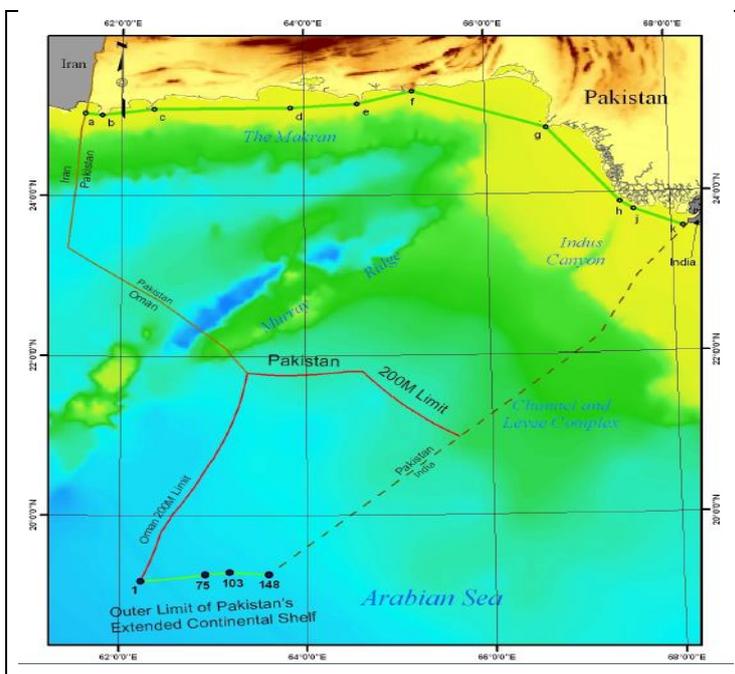
³⁰² See Statement by the Chairperson of the CLCS on the progress of work in the Commission, CLCS/68, twenty-sixth-session, 17 September 2010, Item 8, available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/540/08/PDF/N1054008.pdf?OpenElement> [last accessed 21/10/2014].

³⁰³ See the submission made by the Islamic Republic of Pakistan, available online at DOALOS website at: http://www.un.org/depts/los/clcs_new/submissions_files/submission_pak_29_2009.htm [last accessed 22/10/2014].

³⁰⁴ See statement by the Chair on the progress of work in the CLCS, CLCS/80, thirty-second session, 24 September 2013, Item 11 (2), available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/485/26/PDF/N1348526.pdf?OpenElement> [last accessed 22/10/2014].

extension claim³⁰⁵. Nonetheless, following the presentation made by Pakistan’s delegation referred to above and taking into account the communication from Oman, the CLCS decided to establish a sub-commission to consider the submission by Pakistan³⁰⁶. According to the executive summary of the latter, Pakistan defined the outer limits of its continental shelf by the line 350 nautical miles from the baselines as illustrated in the following **figure**.

Figure 19: The outer limits of Pakistan’s continental shelf as defined by it in its submission.



Source: Executive summary of Pakistan’s submission, figure 1, at p. 8.

The established sub-commission completed the preliminary analysis of the submission during the thirty third session of the CLCS held from 7 October to 11 November 2013 but it transmitted a communication to Pakistan requesting clarification on the

³⁰⁵ See the note verbale from the Permanent Mission of Oman to the UN to the Secretary General of the UN, dated 07 August 2009, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/pak29_09/omn_re_pak_2009.pdf [last accessed 22/10/2014].

³⁰⁶ See footnote no. 304.

submission³⁰⁷. Another communication was transmitted by the sub-commission to Pakistan requesting further clarifications on the submission based on the exchange of views during the meetings held with the Pakistani side during the thirty fourth-session of the CLCS held from 27 January to 14 March 2014³⁰⁸. Having fulfilled that, the sub-commission planned, during the thirty fifth session of the CLCS, ‘to prepare and deliver its presentation pursuant to paragraph 10.3 of annex III to the rules of procedure during the thirty-sixth session, following which it would prepare its draft recommendations’³⁰⁹. Obviously, the outcome of the sub-commission and CLCS’s recommendations will be of a significant importance to Oman’s submission since, as noted above, there might be a potential overlap between the two states’ continental shelves beyond the distance of 200 nautical miles. By virtue of that, the outcome shall be present when Oman prepares for its final submission. Furthermore, due to proximity and the intersection that might occur between Oman’s continental shelf and Pakistan’s continental shelf over the Murray ridge and the Indian fan, it will be necessary and useful to know how Pakistan located the foot of the slope, and determined the 1% sediment thickness, its location and seaward direction in the Indian fan. These technical points will most likely prompt the CLCS and its sub-commissions to seek clarifications from the submitting state during the review of the submission as was the case with Pakistan abovementioned. Notwithstanding that, ‘in the Article 76 context, this would necessitate a full disclosure of information pertaining to the delimitation of the continental shelf, as well as an explanation of the interpretation process that has led to the conclusion at issue. The process, evidently, would require a willingness to share data and a readiness to acknowledge conflicting but equally plausible interpretations’.³¹⁰

The third neighbouring state is the Republic of India whose western coast faces the eastern part of Oman’s coast. It made a partial submission to extend its continental shelf beyond 200 nautical miles with the CLCS, almost two weeks after Pakistan made its own, on 11 May 2009 in three regions³¹¹. One of these regions is the western offshore region of India

³⁰⁷ See statement by the Chair on the progress of work in the CLCS, CLCS/81, thirty third-session, 13 December 2013, paragraphs 25-29, available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/621/29/PDF/N1362129.pdf?OpenElement> [last accessed 22/10/2014].

³⁰⁸ See statement by the Chair, CLCS/83, thirty fourth-session, 31 March 2014, Item 12, available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/284/31/PDF/N1428431.pdf?OpenElement> [last accessed 22/10/2014].

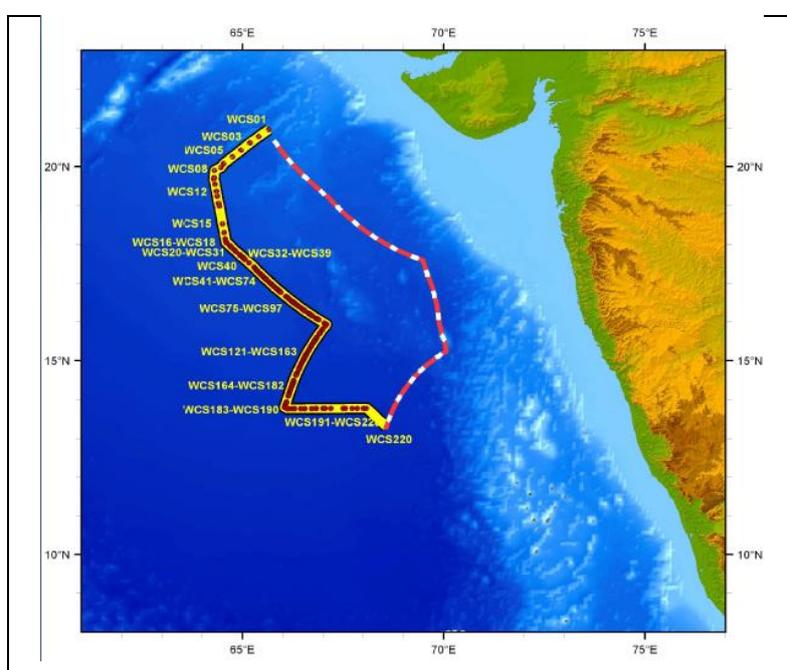
³⁰⁹ See statement by the Chair on the progress of work in the CLCS, CLCS/85, thirty fifth-session, 24 September 2014, Item 11, available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/547/71/PDF/N1454771.pdf?OpenElement> [last accessed 22/10/2014].

³¹⁰ See Ron Macnab, ‘The Case for Transparency in the Delimitation of the Outer Continental Shelf in accordance with UNCLOS 76’ (2004) 35 *Ocean Development and International Law* at p. 11.

³¹¹ See the submission made by the Republic of India, available online at DOALOS website at: http://www.un.org/depts/los/clcs_new/submissions_files/submission_ind_48_2009.htm [last accessed 22/10/2014].

in the Sea of Oman. The outer limits of the extended continental shelf in this region are defined by straight lines not exceeding 60 nautical miles in length connecting 220 fixed points, 171 points out of which are located on the constraint line 350 nautical miles from the baselines³¹².

Figure 20: The outer limits of India's continental shelf in the western offshore region of India in the Sea of Oman as defined by it in its submission.



Source: Executive summary of India's submission, figure IND-ES-5, at p. 13.

The consideration of the partial submission made by India was included in the provisional agenda of the twenty-fifth session of the CLCS held from 15 March to 23 April 2010³¹³. India presented its submission before the CLCS on 16 August 2010 during its

³¹² See the executive summary of the partial submission of India, part VI (7), available online: http://www.un.org/depts/los/clcs_new/submissions_files/ind48_09/ind2009executive_summary.pdf [last accessed 22/10/2014].

³¹³ See footnote no. 311.

twenty-sixth session held from 2 August to 3 September 2010³¹⁴. Following the presentation, the CLCS decided that the part of the submission concerning the offshore region in the sea of Oman would be addressed by way of a sub-commission in accordance with rule 51, paragraph 4 ter, of the ROP, at a future session; whereas the consideration of the other parts of the submission concerning the regions in the Gulf of Bengal and Andaman Islands were deferred due to two notes verbales submitted by Myanmar, and Bangladesh invoking paragraph 5 (a) of annex I to the ROP³¹⁵. Regarding the former part, Oman also sent a diplomatic note to the Secretary General of the UN stating that ‘Oman acknowledges that the area of continental shelf contained in India’s submission overlaps with the area to be included in Oman’s submission [...] the overlap area is, therefore, subject to the delimitation of a continental shelf boundary between Oman and India’³¹⁶. At the time of writing, no developments have occurred in relation to the partial submission of India particularly to the part concerning the offshore region in the Sea of Oman which must be still queued waiting for the establishment of a sub-commission to review it. As illustrated in chapter three, the CLCS has nine active sub-commissions³¹⁷ and whenever recommendations are finally issued for a particular submission, the next submission in line from the queue shall be taken for a consideration by a sub-commission unless it ought to be further deferred due to the non-settlement of a raised dispute.

Similarly with Pakistan, necessity requires Oman to follow closely the review process of India’s submission, while it prepares its own submission, with the aim of knowing the precise location that will be identified for the outer limits of India’s continental shelf since there is a potential overlap already existing between the outer limits claimed by both states. In view of that, it will be necessary to understand how India applied the provisions of Article 76 technically especially the 1% sediment thickness formula and 350 nautical miles constraint on which India relied significantly to delineate the outer limits of its continental shelf³¹⁸. Again, the confidentiality issue might stand as a barrier to have an access to important information of this kind even though it is of important relevance and concern to Oman. Moreover, the recommendations disclosed by the CLCS take the form of a ‘summary’ and do not provide the detailed examinations that take place in relation to the consideration of

³¹⁴ See statement by the Chairperson of the CLCS on the progress of work in the Commission, CLCS/68, twenty-sixth session, 17 September 2010, Item 8 (e), available online at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/540/08/PDF/N1054008.pdf?OpenElement> [last accessed 23/10/2014].

³¹⁵ *Ibid.*

³¹⁶ See diplomatic note from the Government of the Sultanate of Oman to the Secretary General of the UN on India’s continental shelf submission, dated 19 May 2010, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/ind48_09/clcs_48_2009_los_omn.pdf [last accessed 23/10/2014].

³¹⁷ See footnote No. 97.

³¹⁸ See appendix 3 to the executive summary of India’s submission, at pp. 39-48.

submissions. The overlap area, as acknowledged by Oman in its diplomatic note referred to above, seems to lie around the same location of the potential overlap with the outer limits of Pakistan's continental shelf as defined in its submission regarding which Oman submitted a national right reservation. This issue will be further elaborated in chapter five below. India's submission also provides an example of the lengthy period that a submission remains in the queue until the CLCS establishes a sub-commission to review it; a point that Oman should take into account while it moves towards lodging its final submission.

4.2.2. Submissions by states having a continental shelf similar to that of Oman.

In an ideal situation, the shelf, slope and rise of the continental margin can be easily identified; however, this is not the case with most continental margins around the world which have complex shapes and structures according to their tectonic formation and development. This fact is clearly reflected in the Guidelines. As a result, the nature and complexity of the continental margin varies from one coastal state to another based on which the scientific requirements of Article 76 are correspondingly invoked and applied to draw the matching precise outer limits of the continental shelf beyond 200 nautical miles. Notwithstanding that, in some situations, the continental margin of a coastal state might share characteristics similar to that of other coastal states. The similarity can be in one or more than one aspect such as existence of a submarine ridge or a narrow shelf. So far, most of the submissions that received recommendations from the CLCS are made by islands or about islands. These submissions and their recommendations obviously provide, to various degrees, useful information to other island states that intend to make a submission to extend their continental shelves beyond 200 nautical miles particularly those ones situated nearby, albeit that most of the information is not disclosed by the CLCS due, as outlined above, to confidentiality upon a requirement from the concerned coastal state.

In defining the indicative outer limits of its continental shelf in the preliminary information submitted to the Secretary General of the UN, Oman describes the continuous prolongation from its territory to those limits, by way of a sequence, as a relatively narrow shelf, then a large deep plateau of a basin (Owen Basin) up to the boundary with the deep ocean floor of the Sea of Oman marked by submarine ridges namely the Owen and Sharbithat ridges³¹⁹. See **figure 12** above. The foot of the slope has been identified across the eastern

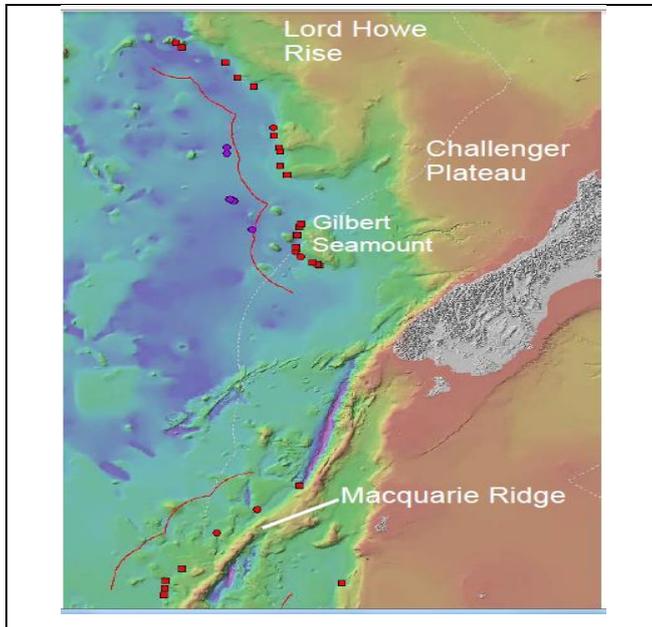
³¹⁹ See footnote no. 276.

flank of these ridges towards the abyssal plain of the Indian Ocean³²⁰. Such characteristics are attributed, as stated above, to the tectonic formation and development of the crust during different periods of time. Indeed, it cannot be compared with other continental margins due to these reasons, and its morphological and geophysical shape and nature. However, in moving towards making a submission to extend the continental shelf beyond 200 nautical miles, it will be useful to know how the CLCS applied Article 76 to submissions that included a characteristic similar to the above characteristics of Oman's continental margin. There are a number of submissions, *inter alia*, that can be noted in this respect. For instance, the Western region³²¹ that constituted one of the regions included in New Zealand's submission made in 2006 in which the foot of the slope and the outer limits of the continental shelf, similarly to Oman's, were identified on the seaward direction of Gilbert Seamount and Macquarie Ridge. See **figure 21** below.

Figure 21: The continental margin of New Zealand in the Western region.

³²⁰ See footnote no. 271.

³²¹ This region covers the southern Norfolk Ridge system, New Caledonia Basin, Challenger Plateau, Lord Howe Rise, and the Macquarie Ridge Complex.

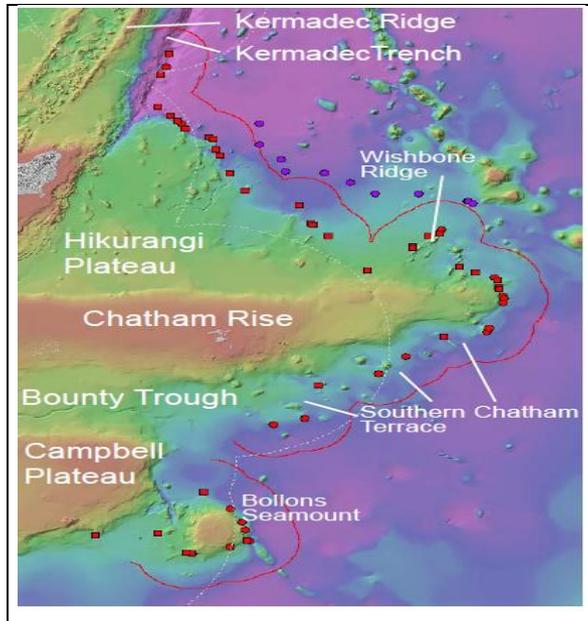


Source: Summary of the CLCS recommendations to the submission made by New Zealand 19 April 2006, figure D.1., at p. 56, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/nzl06/nzl_summary_of_recommendations.pdf [last accessed 30/10/2014].

The CLCS agreed with the way that New Zealand applied the provisions of Article 76 and with the fact that the Macquarie Plateau and Gilbert Seamount are natural components of New Zealand's continental margin in that region³²². Likewise, the CLCS agreed also with the way New Zealand identified the foot of the slope across the Bollons Seamount in the Eastern region as **Figure 22** hereinafter illustrates.

Figure 22: The Bollon Seamount in the Eastern region of New Zealand's submission.

³²² See summary of the recommendations of the CLCS in regard to the submission made by New Zealand 19 April 2006, adopted by the CLCS on 22 August 2008, Part III (d), at pp. 55-59, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/nzl06/nzl_summary_of_recommendations.pdf [last accessed 30/10/2014].



Source: Summary of the CLCS recommendations to the submission made by New Zealand 19 April 2006, figure B.1., at p. 47, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/nzl06/nzl_summary_of_recommendations.pdf [last accessed 30/10/2014].

In its consideration, the CLCS stated that '[...] the saddle area between the plateau and the Bollons Seamount is significantly shallower than the surrounding deep seafloor, and allows the seamount to be included in the foot of the continental slope envelope. Accordingly, the plateau may be readily delineated by its foot of the continental slope envelope and the Commission agrees in general with the way this foot of the continental slope is established by New Zealand'³²³.

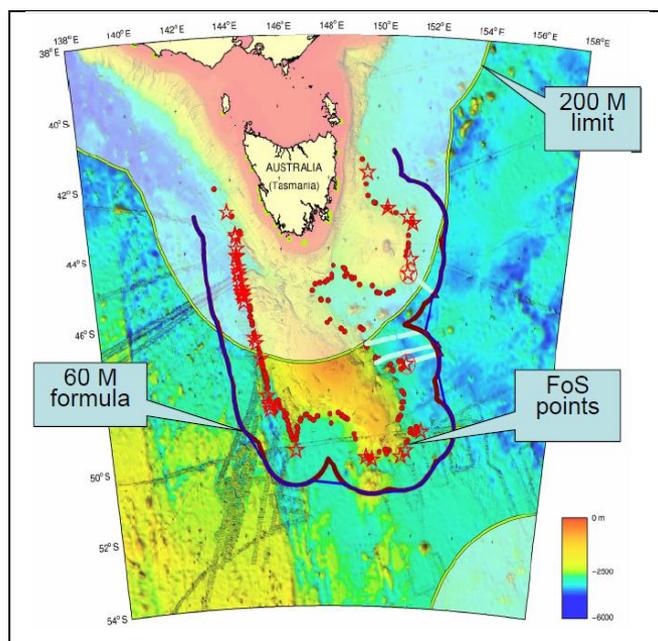
A similar conclusion can be seen as well in the submission made by Australia regarding, *inter alia*, the South Tasman Rise region whereby the CLCS agreed with the locations identified by Australia for the foot of the slope and the outer limits of the continental shelf except for a few points³²⁴. The latter were identified along the seaward direction of South Tasman Rise as illustrated in **figure 23** below. The South Tasman Rise is attached in the north to the rest of the Australian continent through the South Tasman Saddle

³²³ *Ibid*, Part III (b), paragraph 155, at p.48.

³²⁴ See recommendations of the CLCS in regard to the submission made by Australia on 15 November 2004, adopted by the CLCS on 9 April 2008, Part V (G), at pp. 45-50, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/aus04/Aus_Recommendations_FINAL.pdf [last accessed 30/10/2014].

having seafloor depths in the order of 3000 metres³²⁵. In view of invoking the depth constraint criterion, the CLCS agreed with the classification of South Tasman Rise as a submarine elevation that is a natural component of the continental margin in accordance with Article 76, paragraph 6, and paragraph 7.3.1.b of the Guidelines³²⁶.

Figure 23: The continental margin of Australia in the South Tasman Rise region.



Source: Recommendations of the CLCS in regard to the submission made by Australia on 15 November 2004, figure G.2, at p. 47, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/aus04/Aus_Recommendations_FINAL.pdf [last accessed 30/10/2014].

On the other hand, the CLCS disagreed in its recommendations on the Brazilian submission made in 2004 with the classification of the Northern Brazilian and Fernando de Noronha ridges as natural components of the Brazilian continental margin in that region³²⁷.

³²⁵ *Ibid*, Article 1 (152), at p. 45.

³²⁶ *Ibid*, paragraph 6.1.1., at p. 51.

³²⁷ See summary of the recommendations of the CLCS in regard to the submission made by Brazil on 17 May 2004 of information on the proposed outer limits of its continental shelf beyond 200 nautical miles, adopted by the CLCS, with amendments, on 24 August 2011, Part (IV), at pp. 15-17, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/bra04/Summary_Recommendations_Brazil.pdf [last accessed 30/10/2010].

Instead, it recommended to Brazil to carry out further investigations, including additional geophysical data and information, to establish the natural prolongation between the Brazilian landmass and the two ridges for the determination of the outer limits of the continental shelf beyond 200 nautical miles³²⁸. Also, as regards the Vitoria-Trindade ridge region, the CLCS recommended to Brazil to make a revised or new submission to determine the status of Vitoria-Trindade ridge and the exact position of the outer limit of the continental shelf in this region³²⁹. To the south of Brazil's coast, the submissions made by Uruguay and Argentina are also of interest. Although the recommendations have not been finally provided yet, it would be useful to understand how the CLCS treats the continental margins of Uruguay and Argentina in the northern part of its submission particularly the locations where the foot of the slope should be established. The same thing can also be said regarding the submission made by Iceland specifically the western and southern parts of Reykjanes Ridge. As mentioned above, if Oman, during the collection of data, finds out that its continental margin up to the Owen and Sharbithat Ridges, as preliminary classified as such, is elevated above the oceanic crust of the Indian Ocean, then the Owen and Sharbithat features may be classified as submarine elevations. Due to the deep depth of the Indian Fan as recognized in the preliminary information, this is likely to be the case. So far, it seems the above illustrated continental margins of New Zealand constitute good examples for Oman in terms of the location of the foot of the slope and consideration of Gilbert and Bollons Seamounts as natural components of the continental margins of New Zealand by the CLCS.

Another interesting submission is the one made by Japan in 2008 which included various regions of different types of continental margins³³⁰. In all of the regions, there is a ridge, a high, a seamount or a rise. Some of those features were not considered by the CLCS as constituting natural components of the prolongation of Japan's landmass. As regards the Southern Kyushu-Palau Ridge region, the CLCS decided that it was not in a position to take action to make recommendations until such time as the matters highlighted in the notes verbales from China and South Korea have been resolved³³¹. On the other hand, it agreed with Japan on the way the outer limits of the continental shelves are drawn in the Minami-Io

³²⁸ *Ibid*, Article (c), at p. 17.

³²⁹ *Ibid*, Part (V), at pp. 18-19.

³³⁰ See the submission made by Japan, available online at DOALOS website at: http://www.un.org/depts/los/clcs_new/submissions_files/submission_jpn.htm [last accessed 04/11/2014].

³³¹ See summary of the recommendations of the CLCS in regard to the submission made by Japan on 12 November 2008, adopted by the CLCS, with amendments, on 19 April 2012, Part IV (A), at pp.4-5, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/jpn08/com_sumrec_jpn_fin.pdf [last accessed 04/11/2014].

To Island region, the Ogasawara Plateau region, and the Southern Oki-Daito Ridge region, and the Shikoku Basin region with some amendments to certain points pertaining to the application of Article 76³³². Regarding the remaining two regions namely the Minami-Tori Shima Island region and the Mogi Seamount region, the CLCS concluded that ‘the foot of the slope points contained in the submission do not fulfil the requirements of article 76 and chapter 5 of the Guidelines’ and ‘recommended that these foot of the slope points do not form the basis for the establishment of the outer edge of the continental margin in these two regions’³³³. Obviously, with the variety of features included in Japan’s submission, useful information is provided by the CLCS on where to locate the foot of the slope and draw the final outer limits of the continental shelf beyond 200 nautical miles in the event that a similar situation such as a submarine ridge or a seamount is found in another submission like that of Oman. Moreover, thorough illustration of the basis upon which the CLCS concluded if there is or is not a natural prolongation between such features and the landmass of Japan is provided. Actually, the same examinatory process has been by applied by the CLCS with all the submissions that has reviewed so far; therefore, it will undoubtedly be useful for Oman overall, while it is collecting and analysing data for its continental margin, to compare and contrast the relevant parts of the latter with those of other submissions that have been or will be reviewed by the CLCS with the aim to make a successful submission by taking into account the points previously raised by the CLCS.

Generally speaking, it can be realized as a common characteristic that the CLCS always gives priority to the morphological evidence in reviewing the submissions of coastal states and treats on the other hand the geological and geophysical evidences as supplementary. The recommendations to date clearly illustrate this conclusion. Moreover, in reaching its recommendations, the CLCS analyses any scientific literature that is available about the continental margin under examination as evident, *inter alia*, in the submission made by Brazil. More importantly, it seems so far that that the CLCS has considerably agreed, or agreed during the consideration, with the points and lines identified and drawn by the coastal states for their continental shelves unless there was a clear departure from the correct application of Article 76 and the Guidelines. Having said that, it can be arguably concluded that the CLCS, with the recommendations provided so far, has set a precedent for other coastal states to follow in their submissions; consequently, agreement will gradually prevail over disagreement leading to the speed up of reviewing the other submissions. Notwithstanding

³³² *Ibid*, Part IV (B), (E), (F), and (G), at pp. 5-10 and 13-32 respectively.

³³³ *Ibid*, Part IV (C) and (D), at pp. 10-13. *See also* the relevant figures to all regions attached at pp. 32-60.

that, a lot of coastal states made their submissions before 2009, the end of the 10-year period, so they did not have the opportunity to benefit considerably from the submissions made by other coastal states and their relevant recommendations. Moreover, the process is not transparent enough to provide coastal states with information they might need as well as the membership of the CLCS changes regularly which might affect any precedents that might have been set by previous memberships. As a result and as it has been evident from the CLCS recommendations so far, the key and determining factor at the end of the day is the strict compliance by the coastal state with the provisions of Article 76 and the Guidelines in drawing the outer limits of its continental shelf upon which the recommendations of the CLCS are based. In view of that, besides learning from the recommendations of the CLCS provided on submissions that included a similar feature to that of Oman's continental margin as outlined above, Article 76 and the Guidelines shall be primarily the main references for Oman in drawing the outer limits of its continental shelf during the preparation of its submission.

4.3. Concluding remarks

The preliminary information submitted by Oman to the Secretary General of the UN in 2009 contains important scientific data on its entitlement to a continental shelf beyond 200 nautical miles and the outer limits to which it potentially extends. However, these data need to be complemented by further collection and analysis of data towards making a full submission to the CLCS, within 10 years from the submission date of the preliminary information, to delineate precisely the outer limits of the continental shelf in accordance with the provisions of Article 76 and the Guidelines. In the logical order as adopted by the latter, the process should start by updating and drawing the baselines, then identifying and drawing the formula and constraints lines via the identification of the foot of the slope and 2,500 metres isobath, and finally delineating the lines that make the outer limits of the continental shelf. To do so, different scientific methodologies, and tools of documentation, mapping and transfer of information into geodetic datum have to be applied and invoked as provided in the Guidelines. In addition, it is of significant importance to review and follow the submissions made by coastal states whose coasts are opposite or adjacent to that of Oman to know how they might affect the submission that will be made by Oman in terms of any possible overlap as well as taking into account any relevant technical points included in them while moving towards making a submission. Also, the same thing can be extended to other submissions

made by coastal states whose continental margins share a feature similar to that of Oman's continental margin to know how these features have affected their submissions and were treated by the CLCS in its recommendations. Doing so will obviously allow Oman to have a clear idea about the challenges that it might encounter during the preparation and review of its submission, and consequently identify the best ways to overcome them and move forward.

5. Challenges

5.0. Introductory Remarks

Making a submission to the CLCS to extend the continental shelf beyond the distance of 200 nautical miles from the baselines is a complex process which is not free of challenges. The latter are numerous and vary in nature, to some extent, from one coastal state to another depending on a number of reasons including the submission itself. Oman submitted prior to

the end of the 10 year period limit in 2009 only preliminary information rather than a full submission within which it set itself the challenge of making the full submission within a further 10 years. And as Oman 'is actively involved in preparing such a submission', an early identification of the challenges that might be encountered throughout the submission's stages whether they are of a technical or legal nature would enable Oman to apply the right solutions to them at the right time which would consequently ensure the success of its submission. Having said that, this chapter aims to examine the types of challenges that Oman's submission might potentially encounter and the way forward.

5.1. Technical and Legal

5.1.1. Pre-Submission

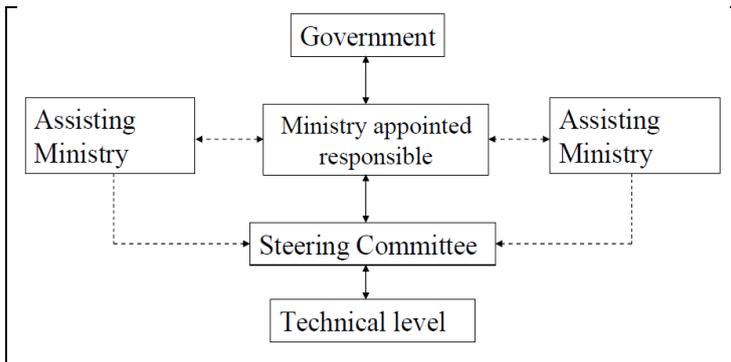
It is well recognized that preparing the submission is the most crucial stage in which most of the work is done. And the biggest part of the latter lies in the collection of data that are necessary to write the submission and fulfil the requirements of Article 76 of the LOSC. It is also the most challenging stage and due to the same reasons. The challenges that can be faced by a coastal state and in our case Oman can be put under three categories. First and foremost is the national expertise and human resources that are required to prepare and make the submission. If they are not available wholly or partially, the initial task then for the coastal state is to build them. In doing so, all stakeholders who have an interest in the project need to be included in order to have an inter-departmental spectrum reflecting the interdisciplinary approach of Article 76³³⁴. In any case, at least a marine geologist, marine geochemist, hydrographer, marine geophysicist and geographic information system officer from the technical side, and a lawyer and diplomat from the legal side should be on board. Oman established a Committee through a decision passed by the Council of Ministers in March 2008 to supervise and manage the preparation and deposit of Oman's submission to extend its continental shelf beyond the distance of 200 nautical from the baselines in which the ministries or governmental bodies that should be part of the Committee were identified, and the Ministry of Foreign Affairs was named as the Chair³³⁵. The model followed for the structure of the Committee reflects almost or to a great extent the one suggested by DOALOS's Manual as can be seen in **Figure 24** below which is commonly adopted by

³³⁴ See DOALOS's Manual, Module VIII, at p. VIII-2.

³³⁵ See Muscat Daily, 'Oman signs Consultancy Contract for Extension of Continental Shelf', published on 13 November 2013, available online at: <http://www.muscatdaily.com/Archive/Oman/Oman-signs-consultancy-contract-for-extension-of-continental-shelf-2pc7> [last accessed 23/11/2014].

coastal states wishing to make a submission. The names of the governmental bodies, which work on the submission, are going to be eventually disclosed when it is deposited with the CLCS.

Figure 24: DOALOS model example for the national continental shelf delimitation project³³⁶.



Source: DOALOS Manual, figure VIII.1, at p. VIII-4.

The first task for the Committee was to ascertain Oman’s entitlement to extend the outer limits of its continental shelf beyond 200 nautical miles by preparing and submitting preliminary information to the Secretary General of the UN which was accomplished almost a year later, as mentioned above, on 15 April 2009³³⁷. Despite the delay in timing, establishing the Committee was the right step in the right direction. Notwithstanding that, achieving the goal assigned to it efficiently and in a timely manner has a great impact on the submission in all aspects. To do so, the Committee and whatever sub-committees or teams are established underneath it and their members should, first of all, understand very clearly their role both individually and collectively, and establish a strong level of coordination amongst them. Obviously, they work for different places; therefore, it is recommended to give the Committee and its sub-committees or teams some kind of administrative and financial independence due to the risk that unless the persons concerned are fully devoted to the project, they will remain subject to their normal organizational structures which may enable their superiors to restrict the amount of their time that they can devote to the project.

³³⁶ According to DOALOS Manual, the management of a national continental shelf delimitation project should include 3 levels: (a) a political or primary level with the Government; (b) an intermediary level with the ministry appointed responsible for the project, its assisting ministries and its executive branch or steering committee; and (c) a technical level with the technical core group. See Module VIII, at p. VIII-4.

³³⁷ See table 2 above. It can be said as well that one of its assignment was to devise a national strategy to implement an effective national project to make a submission to extend the continental shelf beyond the distance of 200 nautical miles consistent with Article 76 and the Guidelines.

Besides being non-permanent, conferring such status in Oman is limited to public entities. Alternatively, this can be done, to a great extent, through secondment and deputation as long as the employers of those persons (entities where they work) decide so. By virtue of its establishing decision referred to above, the Committee is neither independent financially nor administratively and conversely, it has to report to the body that established it; the Council of Ministers. On the other hand, this can be considered as something positive since the submission is of a political nature whereby national interests are at stake and a high level of involvement within the state's apparatus is necessary when making and presenting the submission before the CLCS and in case there is any potential overlap with opposite and adjacent states' maritime zones. Such high level of involvement can be seen, *inter alia*, in the submission made by Australia³³⁸. Nonetheless, it is a bureaucratic way which would slow down the submission's preparations for which time is very critical.

Moreover, possessing the expertise necessary, as mentioned above, to undertake the requirements of Article 76 and the Guidelines is very crucial; otherwise, training will be needed. In addition, 'the lack of technical expertise and committed personnel contributes significantly to a slow down progress'³³⁹. Oman can apply, as stated in Chapter three, for scientific and technical advice from the CLCS³⁴⁰. However, Oman opted to hire a consultant to assist it in the preparation of its submission whereby a three year contract was signed in November 2011 with GNS Science from New Zealand for this purpose³⁴¹. Consequently, 'GNS Science will be involved in all stages of the project including planning marine surveys, processing and analysing marine data, preparing the submission document, and supporting Oman in its discussions with the UN'³⁴². Besides being costly, having a consultant is counterproductive in relation to building the national expertise and capabilities, and confidentiality of the data. This can be overcome, however, through the transfer of expertise from the consultant to the national capabilities by training and working closely together

³³⁸ See Mark Alcock, 'Australia's continental shelf submission-approaches and implications' published in *The establishment of the Outer Limits of the Continental Shelf beyond 200 nautical miles-Its International Circumstances, and its Scientific and Technical Aspects*, (Ocean Policy Research Foundation, Tokyo, 2007) at pp. 81-82.

³³⁹ See Mathew Yamada Chigiyal, 'National Report-Federated States of Micronesia' published in *The establishment of the Outer Limits of the Continental Shelf beyond 200 nautical miles-Its International Circumstances, and its Scientific and Technical Aspects*, (Ocean Policy Research Foundation, Tokyo, 2007) at p. 53.

³⁴⁰ See footnote no. 116.

³⁴¹ See 'GNS Science takes marine geology skills to Oman – 14/11/2013', available online at: <http://www.gns.cri.nz/Home/News-and-Events/Media-Releases/skills-to-Oman> [last accessed 24/11/2014]. See also Oman Observer, 'Contract signed for extending Sultanate's continental shelf', available online at: <http://main.omanobserver.om/contract-signed-for-extending-sultanates-continental-shelf/> [last accessed 24/11/2014].

³⁴² *Ibid.*

throughout the preparation of the submission. In terms of management, apart from the fact that the Committee is chaired by the Ministry of Foreign Affairs, having an independent project manager attached to the Committee will be of significant benefit for Oman to ensure that the submission-related work is done on time according to plan and budget.

The second category is the availability or possession of the technical means that are necessary to carry out the collection and analysis of data. Oman, as stated in the preliminary information, had already conducted a thorough desktop study which was reviewed in light of information acquired since 2002 as well as having compiled bathymetric data from single and multi-beam surveys by Omani Authorities and from international surveys³⁴³. It had also gathered data from oil exploration databases and results from the JOIDES ocean drilling programme – leg 117³⁴⁴. This obviously provided answers to a lot of technical questions such as the ‘test of apurtenance’ but also enables Oman, unless other sources of databases are still to be collected whether available internally or internationally³⁴⁵, to identify and plan the cost, type and location of the surveys that are necessary to fill in the gaps towards completing the full submission in accordance with Article 76 and the Guidelines³⁴⁶. Consequently, time and money will be saved. Notwithstanding that, most of the data provided in the preliminary information were, as highlighted in chapter four above, indicative rather than precise. Moreover, it is stated explicitly that update and/or further collection and analysis of data are needed to complete the submission³⁴⁷. As a result, the extent of the necessary surveys might exceed the expected or planned. For this purpose and similarly to what was decided regarding the consultant, it has been announced that Oman will hire a specialised vessel to conduct the surveys and collection of data for the extension of the continental shelf project³⁴⁸. Again, in addition to the time that will be spent on tendering³⁴⁹, hiring such a ship will give rise to further costs to be borne by the government as well as that the crew on board will not be related to the project who have to be accompanied by the relevant people in the Committee and of the consultant. From a general perspective, having a good planning, based on the desktop study and existing data, for the survey’s tracks and locations will undoubtedly be of

³⁴³ See the Executive Summary, part III, at p. 3.

³⁴⁴ *Ibid*, part II, (c) & (d), at p. 2.

³⁴⁵ Annex I to the Guidelines, for instance, provides a list of available sources of data at the international level. Another useful list of sources of data is provided in DOALAS Manual in Module VIII, at pp. VIII-19 – VIII-21.

³⁴⁶ Also, detailed surveys will provide a clear picture on the available resources on the continental shelf.

³⁴⁷ See, for instance, part III (a), (c) and (e) of the Executive Summary at pp. 3 and 4 respectively.

³⁴⁸ See also Oman Observer, ‘Contract signed for extending Sultanate’s continental shelf’, published on 13 November 2013, available online at: <http://main.omanobserver.om/contract-signed-for-extending-sultanates-continental-shelf/> [last accessed 24/11/2014].

³⁴⁹ In this regard, DOALOS Manual provides valuable information regarding the tendering process which is available in Module VIII at pp. VIII-29 – VIII-37.

pivotal significance in this respect. And for the purpose of efficiency and reduction of cost and time, it will be useful for Oman to establish regular contacts with the ships of opportunity that might be visiting the region or planning to work close to the intended area of Oman's submission. It is well recognized that this stage is largely time-consuming which usually lasts for years depending on the size of the geographic region of survey and the need to collect data of high quality. In addition to that, the data collected need to be analysed using the right methodologies, and then carefully archived, compiled, transformed and documented (data management) in the forms that meet the requirements of the Guidelines such as, *inter alia*, maps and custom designed computerized database (GIS). For the sake of time and efficiency, the Committee should have people assigned for every part of the submission in a well-planned, collaborative and organized manner. Furthermore, it 'must be equipped with well-furnished offices, possibly high-tech computers and relevant state-of-the-art software and other logistic facilities'³⁵⁰. Arrangements should also be put in place to ensure the safe storage, maintenance and effective retrieval of data for future use. Once all data are available, the submission should be prepared in accordance with the outline proposed by the CLCS³⁵¹.

The third category is the financial resources upon which the above two categories actually depend and without which any progress is difficult. As mentioned above, the Committee established by the Omani government to supervise the extension of the continental shelf project is not financially independent; consequently, its budget and expenses have to be determined by the Council of Ministers (as the parent body) and approved in accordance with the applicable financial laws in Oman. Failing to approve any cost on time will consequently have a negative impact on the programme of work and timeline planned for preparing and completing the submission. Oman is an oil-producing state whereby oil revenues make up 83% of its income and are heavily depended on³⁵². And as the current oil prices are taking a downwards trend, a difficulty might be faced in meeting the expenses arising from the extension of the continental shelf project unless a certain budget has already been estimated and allocated. Otherwise, other sources of funding have to be secured. Apart from borrowing from the internal or international financial market, this can be done by reaching out to the oil firms working in Oman for whom the surveys and data collected about the continental shelf will be of significant interest in return for priority for commercial agreements in the future. If possible, Oman should take into account the experience gained

³⁵⁰ See DOALOS Manual, Module VIII, at p. VIII-13.

³⁵¹ See footnotes no. 140-142, **table 4** above, and **appendix 5**.

³⁵² See Saleh Al Shaibany, 'Lower Oil Prices in Oman to hit Fiscal Budget: Experts' published on 14 of October 2014, Times of Oman, available online at: <http://www.timesofoman.com/News/41278/Article-Lower-oil-prices-in-Oman-to-hit-fiscal-budget-Experts> [last accessed 27/11/2014].

from previous submissions to the CLCS by other coastal states. Given it is a developing country, Oman may obtain funding from the trust fund established by the General Assembly of the UN for the purpose of facilitating the preparation of submissions to the CLCS for developing states³⁵³. Notwithstanding that, this trust fund gives a priority to the least developed countries and small-island developing states, as well as that it cannot be allocated for data acquisition and functions but only for project planning and desktop study which has already been done by Oman³⁵⁴. Despite that, it can be relied on for training, advisory consultancy, working out plans for the acquisition of necessary additional data and mapping projects, and preparations of final submission documents³⁵⁵. In general, preparing and making a submission with the CLCS demands a lot of financial resources which developing states, in particular, find it hard to bear unless there is a strong belief at the high levels of the state that the project is an investment for the future and next generations. And as abovementioned, having a project manager will be of significance in making the project cost-effective.

5.1.2. During Submission

Some of the challenges, because of their nature, accompany the submission even after being deposited with the CLCS. For instance, further costs, but to a lesser degree, will be incurred for travelling and representing the submission in New York. It is worth noting in this respect that ‘preparing the staff who are to make the presentation to the CLCS is an important task which must not be underestimated. The delegation of the coastal state should include a team of technical experts who are very conversant with the submission. Such a team should be put together early on in the national continental shelf delimitation project so as to allow its members to fully familiarize themselves with all aspects of the submission as it evolves’³⁵⁶. Although the focal point between the CLCS and the coastal state (in our case Oman) during the consideration of the submission will obviously be the Permanent Mission of the coastal state (Oman) to the UN in New York, having some of the referred to members in New York will be necessary to inter act with the CLCS during the consideration period. The interaction with the CLCS will take different forms of various complexities such as written questions,

³⁵³ See footnote no. 139.

³⁵⁴ *Ibid.*

³⁵⁵ *Ibid.* Annex II to the Resolution provides details on the process of application, consideration and granting of financial assistance.

³⁵⁶ See DOALOS Manual, Module VIII, at p. VIII-38.

clarifications enquiries, additional information or making presentations³⁵⁷. A good example in this respect is the recommendations of the CLCS in regard to the partial submission made by Ireland on 25 May 2005 on the proposed outer limits of its continental shelf beyond 200 nautical miles in the area abutting the Porcupine Abyssal Plain in which the full communications that took place between the CLCS and Ireland are disclosed³⁵⁸. Putting a strategy, therefore, on place for this stage will be of vital importance for Oman to ensure that there is a proper communication between the CLCS and the team in New York, and between the latter and the Committee or some of its assigned members in Oman.

More importantly, the workload and working pressure of the CLCS, as illustrated in chapter three, has increased rapidly as a result of the rising number of submissions received from coastal states³⁵⁹. Consequently, the time for every submission to spend in the queue until a sub-commission is established by the CLCS to review it has gone up as well. For instance, the partial submission made by India, as mentioned in Chapter four above, is still queued since it was lodged with the CLCS on 11 May 2009. Furthermore, the period of waiting in the queue is expected to lengthen if more submissions are made by coastal states to the CLCS which needs to be taken seriously into account by Oman for two reasons. The first lies in the strong likelihood that the people who worked on preparing the submission might not be available any more. The same applies to the consultant that Oman hired to assist it in preparing it especially the scientific and technical parts of it around which most of the CLCS's questions and clarification enquiries are mainly centred. In a book published by UNEP/GRID-Arendal, it is stated that 'when States made submissions they did not necessarily anticipate that it would take many years to receive recommendations. These countries face institutional memory loss if the process does not speed up. It may be necessary in the future to change the workings of the Commission in order to issue recommendations more quickly so as not to disadvantage States. This can only be decided by States Parties'³⁶⁰. While Oman is still in the early stages of preparing its submission, it is highly recommended that the Committee includes this matter with importance in the national strategy it adopted for making Oman's submission. Assuming that Oman might lodge its submission in 2018, the period of waiting in the queue would not be less than 6 to 7 years in light of the number of submissions that are already in the queue and the current working trend of the CLCS. In

³⁵⁷ See Article 6 and 10 of Annex III (Modus Operandi) to the ROP.

³⁵⁸ Adopted by the CLCS on 5 April 2007, available online at: http://www.un.org/depts/los/clcs_new/submissions_files/irl05/irl_rec.pdf [last accessed 28/11/2014].

³⁵⁹ See footnotes no. 96 to 98.

³⁶⁰ See Tina Schoolmeester *et al*, *Continental Shelf the Last Maritime Zone* (UNEP/GRID-Arendal, Norway, 2009) at p. 13, available online at: http://www.unep.org/dewa/Portals/67/pdf/Continental_Shelf.pdf [last accessed 29/11/2014].

terms of solutions, this can be overcome, to a large extent, by having an agreed process for rapidly replacing those who leave and training those recruited to succeed them, as well as for keeping some sort of skeleton team together during the queuing period. For this purpose, the members of this team should be involved closely with the main team in the preparation of the submission all the way until its deposit with the CLCS. The involvement shall continue afterwards, during the waiting period in the queue, by holding meetings regularly at different intervals. The other benefit of this is that the national expertise which Oman will build and gain from making the submission will increase in numbers.

The other reason lies in keeping in line with any development that might occur, during the period of waiting in the queue, with any of the scientific methodologies and custom designed computerized software that have been adopted by the CLCS and followed by the coastal state (in our case Oman) in preparing and making its submission. For instance, the GIS software that Oman uses in its submission might be updated or/and the CLCS might adopt new ones different from that used by Oman. The latter might itself find, during this period, new scientific methodologies and software to better support or illustrate the evidence contained in its submission. For instance, 'Australia used ArcView to present its submission, and ArcGIS to prepare most of its maps. However, ArcView, however, is an application that is no longer being developed and fully supported by the vendor'³⁶¹. In a meeting with Alan Evans³⁶² from the National Oceanography Centre in the UK on 21 November 2014, he pointed out that 'it is not certain whether in 25 to 30 years time the software that will be used today will still be in circulation or of any use then. It is important therefore to focus on retaining generic data formats that can be used in a variety of software (some of which may not have been developed yet) and ensuring that these, along with a copy of the submission, will be kept securely'. In light of the aforementioned, it is of vital significance to follow closely the work of the CLCS while the submission is still queued, and revisit the submission regularly to check if any updates are needed. According to Evans, 'since the LOSC allows the coastal state to modify its submission should it wishes to do so, an eye needs to be kept on issues relating to interpretation, jurisprudence and other evolving trends that can be benefited from so they can be addressed closer to the time'.

³⁶¹ See Mark Alcock, footnote no. 338 at p. 101.

³⁶² Evans is a senior scientist in the National Oceanography Centre in Southampton, the UK, who worked on all the UK continental shelf submissions to the CLCS, and provided advice on the interpretation and implementation of Article 76 of the LOSC to more than 20 governments, which resulted in the completion of a number of submissions for continental shelf.

5.2. Possible Areas of Overlap

5.2.1. Location of Areas of Overlap

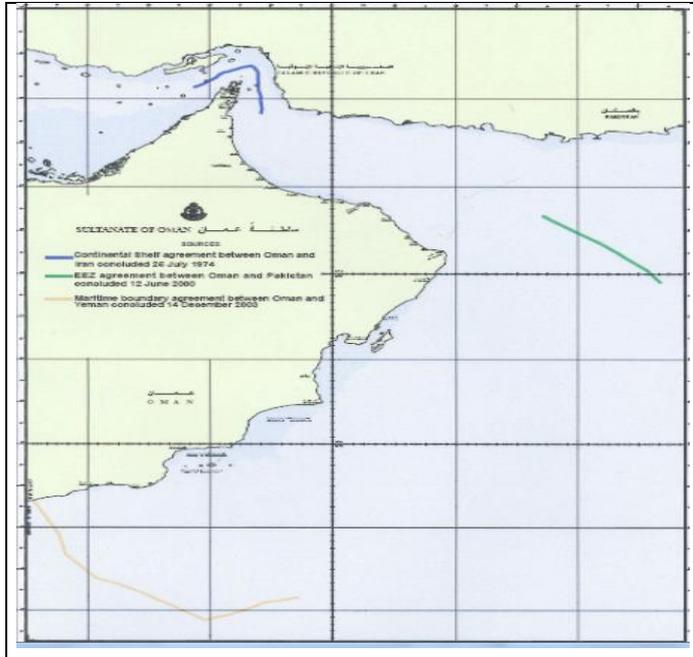
Oman shares, as illustrated in chapter four, maritime boundaries with four opposite and adjacent coastal states. Of the Gulf States, it is the only one that has a continental shelf stretching into the Indian Ocean. At the time of writing, three maritime delimitation agreements have been concluded between Oman and some of its opposite and adjacent states. The first one concerns delimitation of the continental shelf between the Sultanate of Oman and Iran in the Strait of Hormuz which was signed on 25 July 1974 and entered into force on 28 May 1975³⁶³. The second one is the Muscat Agreement on the delimitation of the maritime boundary between the Sultanate of Oman and the Islamic Republic of Pakistan which was signed on 12 June 2000 and entered into force on 21 November 2000³⁶⁴. The third and final agreement is on the delimitation of the maritime boundary between the Sultanate of Oman and the Republic of Yemen in the Arabian Sea which was signed on 14 December 2003 and entered into force on 3 July 2004³⁶⁵. The delimitation lines of these agreements are illustrated in the following figure.

Figure 25: Oman Maritime Boundaries Delimitation Agreements

³⁶³ See Agreement concerning Delimitation of the Continental Shelf between Iran and Oman 25 July 1974, available online at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/IRN-OMN1974CS.PDF> [last accessed 02/12/2014].

³⁶⁴ See Muscat Agreement on the Delimitation of the Maritime Boundary between the Sultanate of Oman and the Islamic Republic of Pakistan, 12 June 2000 (1), available online at: <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/OMN-PAK2000MB.PDF> [last accessed 02/12/2014].

³⁶⁵ See Agreement on the Delimitation of the Maritime Boundary between the Sultanate of Oman and the Republic of Yemen, UN Treaty Series, 2005, Volume 2309, 1-41170, available online at: <https://treaties.un.org/doc/Publication/UNTS/Volume%202309/v2309.pdf> [last accessed 02/12/2014] at pp. 249-259.



Source: Executive Summary of Oman’s preliminary information, figure 7.

As is evident from the above map, further maritime boundaries remain to be delimited with Iran and the United Arab Emirates in the Strait of Hormuz (tri-points) and Sea of Oman. Notwithstanding that, ‘these boundaries are within the distances of less than 400 nautical miles from the coast of opposite states and have no implications for the submission’³⁶⁶. In addition, ‘the area of extended continental shelf to be included in Oman’s submission lies between the southern-most point on the Oman-Pakistan boundary and the eastern-most point on the Oman-Yemen Boundary’³⁶⁷. Therefore, any possibility of overlap arising out of extending the outer limits of Oman’s continental shelf beyond 200 nautical miles from the baselines will only occur along this area. Oman stated in its preliminary information that should there be any overlap between the areas to be included in the submissions of Oman, Pakistan and Yemen respectively, it may be necessary to extend these boundaries³⁶⁸.

Yemen made, as mentioned in chapter four, a submission to the CLCS on 20 March 2009 in respect of the area south east of Socotra Island which does not have any impact on

³⁶⁶ See Part III (d) of the Executive Summary, at p. 4.

³⁶⁷ See footnote no. 231. See also **figure 9** above.

³⁶⁸ See footnote no. 366.

the intended area that will be included in Oman's forthcoming submission³⁶⁹. On the other hand, Pakistan's submission, which was made on 30 April 2009, defined the outer limits of Pakistan's continental shelf by the 350 nautical miles line from the baselines³⁷⁰ regarding which Oman lodged a note verbale with the Secretary General of the UN³⁷¹. Another note verbale³⁷² was also lodged regarding India's partial submission concerning the western offshore region in the Sea of Oman whereby the majority of the points making the outer limits of India's continental shelf in this region are located, similarly to Pakistan's submission, on the 350 nautical miles constraint line. While Oman is also using the 350 nautical miles line to delineate the outer limits of its continental shelf, there is a possibility that the area included in the three submissions might overlap in that region. **Figure 26** below depicts this region. Notwithstanding that, such scenario will not be certain until the CLCS provides the three states with its recommendations on where the outer limits of their continental shelves shall be drawn. And even if provided, it is well established that 'the actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite and adjacent coasts'³⁷³.

Figure 26: The region where the potential overlap between Oman, Pakistan, and India might occur.

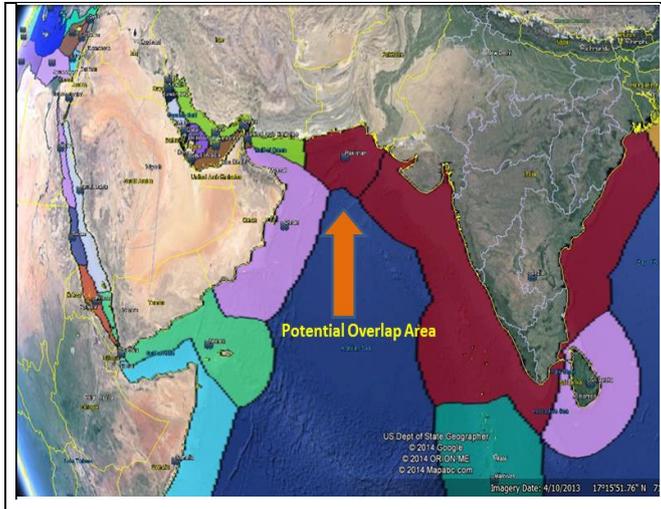
³⁶⁹ See footnote no. 296. See also **figure 18** above.

³⁷⁰ See **figure 19** above.

³⁷¹ See footnote no. 305.

³⁷² See footnote no. 316.

³⁷³ See Article 9 of Annex II to the LOSC.



Source: Adapted by the author from Google Earth.

Given the above, it is important, as stated in DOALOS Manual, that ‘the national continental shelf delimitation project must take into consideration the legal impact that the project may have on neighbouring states. When planning for a submission, the coastal State will need to consider international and regional circumstances and requirements, and in particular, the international and regional obligations that may be relevant for the preparation of the submission’³⁷⁴. In light of that, constructive steps need to be taken by Oman to ensure that the potential overlap referred to above will not have an effect on making its submission and eventually establishing the outer limits of its continental shelf on the basis of the CLCS’s recommendations.

5.2.2. Solutions

By contrast with Pakistan and India, Oman submitted only preliminary information in 2009 whereas the former lodged submissions to the CLCS in the same year; consequently, both of them will receive recommendations from the CLCS on the outer limits of their continental shelves before Oman. Both of these states have therefore already carried out surveys and interpreted data in the area where the potential overlap is expected to occur. It is well established that ‘at the planning stage, it may be cost-effective to involve neighbouring states for joint surveys. This requires joint planning and examining the possibility of data

³⁷⁴ See DOALOS Manual, Module VIII, at p. VIII-10.

exchange and interpretation. If such cooperation is positive, this will be the basis for mutually agreed-upon procedures on the final submission³⁷⁵. Although Pakistan and India have already done this stage and it is not possible; as a result, to make a joint submission³⁷⁶ for that particular area, Oman can still approach them for exchange of data. Despite the possibility of refusal on grounds of confidentiality, however, doing so is more likely going to have a positive impact on how the three states will view the matter, from a perspective of cooperation and collaboration.

In terms of timing, the potential overlap shall be dealt with by Oman as early as possible in the national strategy adopted for preparing and lodging the submission. The best approach is to deal with the matter and collection and analysis of data concurrently. Generally speaking, Oman has good relations with both Pakistan and India at a high level in many areas. Joint committees have been established with both states which meet regularly and in each country to discuss and improve the bilateral level of cooperation. The three states are also members in regional organizations such as the Indian Ocean Tuna Commission (IOTC), the South Asia and Africa Regional Port Stability Cooperative (SAARPSCO), and the Asian-African Legal Consultative Organization (AALCO). Given that, an exchange of information, if requested by Oman, might be welcomed by Pakistan and India. If not, it will at least establish a platform for reaching an understanding for the future.

An example of a similar situation can be seen, *inter alia*, in the partial submission made by Denmark together with the Government of the Faroes in respect of the continental shelf north of the Faroe Islands on 29 April 2009, whereby Denmark, Norway, Iceland and the Government of the Faroes reached an understanding to allow the CLCS to consider any submission to be made by any of them in that area where a potential overlap might occur between their submissions³⁷⁷. From a general point of view, “most areas of continental shelf beyond 200 nautical miles involve more than one coastal state³⁷⁸. Therefore, reaching an understanding will ensure that Annex I to the ROP will not be invoked by any of the concerned states.

³⁷⁵ *Ibid*, at pp. VIII-25 – VIII-26.

³⁷⁶ There is a number of neighbouring states that made joint submissions together. See **table 1** above.

³⁷⁷ See the submission made by Denmark together with the Government of the Faroes in respect of the continental shelf north of the Faroe Islands, and the notes verbales lodged by Iceland and Norway thereto, available online at DOALOS website at: http://www.un.org/depts/los/clcs_new/submissions_files/submission_dnk_28_2009.htm [last accessed 08/12/2014].

³⁷⁸ See Alex G. Oude Elferink, ‘Article 76 of the LOSC on the Definition of the Continental Shelf: Questions concerning its Interpretation from a Legal Perspective’ (2006) 21 *The International Journal of Marine and Coastal Law* 3 at p. 283.

Oman might have already held discussions with the Pakistani and Indian sides regarding the subject matter since it has been noted during the submission of the preliminary information in 2009. This can be drawn from the note verbale sent by Oman to the Secretary General of the UN regarding Pakistan's submission where it is stated that 'the Sultanate of Oman affirms its willingness to cooperate as well as discuss with its neighbours its intended submission'³⁷⁹. If no discussions have been initiated yet, it is of significant importance to do so as soon as possible while Oman is preparing its submission, knowing that vessels will be sent to the potential overlapping area to conduct surveys. Indeed, assurances from all sides that the outer limits of the continental shelves established on the basis of the CLCS's recommendations shall not prejudice matters relating to the delimitation of boundaries between them have to be confirmed and exchanged.

Oman has already stated explicitly in its preliminary information that 'this preliminary information is provided without prejudice to [...] any eventual delimitation that may be required'³⁸⁰. So too has India in its submission³⁸¹. Including such a statement expressly in the submission conforms to the requirement of the CLCS contained in articles 2 (b) and 6 of its ROP. Notwithstanding that, it is always better to have any agreed-upon understanding in a written form to avoid any uncertainty that might arise in the future. It does not necessarily have to be sent to the CLCS separately as long as it is clearly reflected in the submission and adhered to by the concerned states.

Reaching an understanding will therefore ensure that each coastal state will receive recommendations from the CLCS determining precisely the location of the outer limits of its continental shelf beyond 200 nautical miles from the baselines. Following that, the concerned states are free to decide what to do next. It is useful to include this stage as well in the agreed-upon understanding. Otherwise, another understanding has to be discussed and concluded. The first state that is going to receive recommendations from the CLCS on the outer limits of its continental shelf is Pakistan. India and Oman will follow consecutively.

Once the recommendations are received and the overlap, if any and between whom, is confirmed, the three states, whether bilaterally or collectively depending on the location of the overlap, have two options to consider. The first one is to delimit the continental shelf between them which 'shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve

³⁷⁹ See footnote no. 305 at p. 2.

³⁸⁰ See Part III (d) of the Executive Summary, at p. 4.

³⁸¹ See footnote no. 312, part V (2), at p. 4.

an equitable solution'³⁸². Pending that agreement, the concerned states shall, in a spirit of understanding and cooperation, 'make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement'³⁸³. This option is possible since legislation in all three states calls for a maritime boundary that does not extend beyond a line that is equidistant from their baselines. In Oman, Royal Decree No. 15/81 states that 'in the case there is a coast of another state opposite or adjacent to that of the Sultanate of Oman, the outer limit of the territorial waters, the EEZ and continental shelf shall be determined by a median line whereby each part of it shall be equal in distance from the nearest base points from which the breadth of the territorial sea of the Sultanate and the territorial sea of the other opposite and adjacent states are measured'³⁸⁴. Section 9 of India's Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, provides also that 'the maritime boundaries between India and any State whose coast is opposite or adjacent to that of India in regard to their respective territorial waters, contiguous zones, continental shelves, exclusive economic zones and other maritime zones shall be as determined by agreement (whether entered into before or after the commencement of this section) between India and such State and pending such agreement between India and any such State, and unless any other provisional arrangements are agreed to between them, the maritime boundaries between India and such State shall not extend beyond the line every point of which is equidistant from the nearest point from which the breadth of the territorial waters of India and of such State are measured'. Likewise, article 1 (b) of section 8 of Pakistan's Territorial Waters and Maritime Zones Act, 1976, adopted a similar wording to that of India's which both followed the line of Article 83 of the LOSC. Proceeding from these grounds, delimitation of a continental shelf's overlap seems to be easily approachable and acceptable by the three states whether on bilateral or collective basis.

The other option is to find another acceptable solution other than delimitation to deal with the overlap. This can be drawn from the submissions that are made by other coastal states. A good and obvious example is to transform the area of overlap to a joint management area whereby a body, through agreements, is established by the three states or two of them, depending on the eventual location of the overlap, to exercise the rights pertaining to the continental shelf under the LOSC on behalf of them. Notwithstanding that, this tends to happen more likely when states make joint submissions as the political will and

³⁸² See article 83 (1) of the LOSC.

³⁸³ *Ibid*, paragraph 3.

³⁸⁴ See article 8.

understanding to act jointly have already been established. This kind of solution can be seen, *inter alia*, in the post-CLCS recommendations of the joint submission made by the Republic of Mauritius and Republic of Seychelles in 2008 where the two states decided to establish the world's first joint management zone concerning the overlapping area between their continental shelves beyond 200 nautical miles in the Mascarene Plateau region, and a joint commission to manage and coordinate the development, conservation, exploration and exploitation of the non-living resources of the seabed within that area³⁸⁵. Although it is too early to evaluate its success, the two states have set a guiding model for other states to follow through which the obstacles associated with the activities of managing and securing the benefits of the continental shelf beyond 200 nautical miles are shared in a collective manner.

Having said that, it is important for Oman to follow a step-by step approach to deal with the aforementioned potential overlap as it moves towards making its submission to the CLCS and receiving recommendations on the outer limits of its continental shelf beyond 200 nautical miles. At the preparation stage, the matter has to be included in the national strategy of preparing the submission and discussed with the concerned states, as early as possible, towards reaching an understanding preferably in a written form. Alternatively, the submission should be made with an assurance stating it is 'without prejudice to matters relating to the delimitation of boundaries between states'. Upon receipt of the recommendations, the overlap can then be settled, through agreements, either by way of delimitation in accordance with the LOSC or other peaceful mechanisms such as the establishment of a joint management area.

5.3. Concluding Remarks

The fact of having submitted only preliminary information indicates that Oman understands the complexity and challenges that might be encountered in making a full submission to the CLCS to extend the outer limits of its continental shelf beyond 200 nautical miles from the baselines. On the other hand, having done that allowed Oman to bypass some of those challenges and have more time to address the rest. The key factor here is to foresee the challenges associated with the submission and adopt the right strategy to deal with them efficiently and in a timely manner according to their nature. The different types of challenges outlined above are what Oman, as any other coastal state, is likely to face while preparing its submission and afterwards. Being able to address them in a well-planned manner will ensure

³⁸⁵ See '*Seychelles and Mauritius Sign Landmark Treaties for Joint Management of Continental Shelf*', Ministry of Foreign Affairs of the Republic of Seychelles, available online at: http://www.mfa.gov.sc/static.php?content_id=36&news_id=278 [last accessed 10/12/2014].

significantly the success of Oman's submission. At the same time, following closely the work of the CLCS and any developments associated with the submission process is of an equal significance.

6. Conclusion

More than sixty years before today, the world was divided on how to define the continental shelf. Today, the Commission on the Limits of the Continental Shelf is struggling to find a way to cope with the increasing working pressure and handle the growing number of submissions made by coastal states to extend their continental shelves beyond the distance of 200 nautical miles from the baselines. In the meantime, eligible coastal states are to secure their legal entitlements to the seabed by establishing precisely the outer limits of their continental shelves. This will enable them to access valuable natural resources, such as minerals, oil, and gas, as well as sedentary species. This kind of stability and certainty would have not been possible without the LOSC whose adoption and entry into force marked the beginning of a new era in the law of the sea after decades of evolution in state practice,

international case law and treaty law. The effect of its provisions on the continental shelf is that practically all seabed natural gas and oil resources fall under the control of coastal states. It became clear that ‘the resources to be derived from the continental shelf are enormous and, in the future, the shelf area will be the main source of world oil and gas supplies. Offshore oil production in the year 2000 was estimated at 1.23 billion tons, and natural gas at 650 billion cubic metres’³⁸⁶. Therefore, clearly established and recognized outer limits of the continental shelf will confer legal stability for the coastal states to exercise sovereign rights over those valuable natural resources.

To reach that end though is a long process. It is not only the interests of the coastal states that are at stake but also of other states and the Area represented by the international community. Article 76 of the LOSC sets, in a logical order, the rules according to which eligible coastal states should establish their entitlement to extend the outer limits of their continental shelves beyond 200 nautical miles from the baselines. Unlike the outer limits of other maritime zones which are determined by distance measurement, a combination of measurement, analysis, and interpretation of the depth of the water, distance, shape of the seabed, and thickness of sedimentary material are necessary to delineate the outer limits of the continental shelf where various and complex scientific methodologies and techniques are involved. Furthermore, all this scientific complexity has to be done in a legal framework pursuant to the provisions of Article 76 and Annex II to the LOSC by preparing and depositing a submission to the CLCS in accordance with a specified time limit. The submission, in terms of form and contents, has to meet further requirements as required by the CLCS in the ROP. The process continues by entering into engagement with the CLCS which lasts for numerous years towards finally establishing the outer limits of the continental shelf. Then, the coastal state, if it has accepted the outcome, has to meet other obligations by delimiting the new boundary with opposite and adjacent coastal states, and depositing charts or a list of geographic information of the final outer limits with the Secretary General of the UN and the Secretary General of the International Seabed Authority. Therefore, every step and body associated with the submission process is regulated by rules and regulations which coastal states have to understand, follow, and comply with. Volumes of books and articles have been written about the 10 paragraphs of Article 76 of the LOSC, let alone the Guidelines and DOALOS Manual. Furthermore, they continue to be the subject of and attract ongoing writings and thorough examination whether for the purpose of criticism or further analysis and elaboration. Therefore, if understanding the essence of Article 76 is of this level

³⁸⁶ See DOALOS Manual, Module VIII at p. VIII-2.

of complexity, the putting of it into practice by coastal states would be expected to be even more so. In view of this fact, the first part of this paper sheds light on the development of the concept of the continental shelf, its status and definition as provided in the LOSC, the functions and structure of the CLCS, and the submission process and its rules knowing the importance of understanding them for any coastal state wishing to make a submission to the CLCS to extend the outer limits of its continental shelf beyond 200 nautical miles from the baselines.

To explore the subject matter further but from a practical angle, the paper takes the submission to be made by the Sultanate of Oman as a case to study in light of the aforementioned. Oman met the time threshold by submitting only preliminary information in 2009 indicative of the outer limits of its continental shelf, with a lot remaining to be done towards making the submission. Examining the data provided in the preliminary information against the background of the provisions of Article 76 and all other documents associated with the submission process, conclusions can be drawn on what Oman shall do for that purpose. The preliminary information *per se* achieved its objective by temporarily securing Oman's entitlement to extend the outer limits of its continental shelf beyond the EEZ limit of 200 nautical miles through the collection and provision of scientific data supporting its case.

Furthermore, the preparation of the preliminary information must have made Oman get the sense of how complex and challenging preparing the submission will be. So 10 years were set as a target by Oman for preparing and making finally its submission. Currently, it is the sixth year. What have been done so far and what more is still to be accomplished will determine if that time target will be met by Oman. If an external eye views this broadly, it will get the impression that Oman is facing a difficulty in making its submission. It is not alone though as, to varying degrees, this is true also of those coastal states that have lodged only preliminary information and are working towards making a submission. The common factor between them is that most of them are developing states.

There is no doubt that the preliminary information provided Oman with answers to many scientific questions and a road map on how to move forward. Despite that, it seems to have relied, to a great extent, on a desktop study and compilation of existing data. Consequently, the difficult parts of the work represented in the collection of data through field surveys, interpretation and documentation of these data in accordance with the Guidelines, and writing the submission are yet to be done which constitute most of the submission. In order to achieve this aim, Oman, as outlined above, established a national

Committee, appointed a consultant, and hired a vessel to conduct the necessary surveys. Looking at this in light of the preliminary information on one side, and against the background of Article 76 of the LOSC and all other documents associated with the submission process on the other side, it can be said that Oman needs to pay attention to the following issues:

First: time is pivotally crucial. Making the submission without delay will ensure that Oman will get the recommendations upon which the outer limits of its continental shelf to be established early. As a result, it will have an early access to the benefits of the natural resources of its continental shelf. The period a submission takes until it is provided with recommendations has been gradually increasing while 3 sub-commissions of the CLCS could function simultaneously. Hence, this period is expected to increase with more submissions continuously being lodged by coastal states unless States Parties to the LOSC do something about it. The governing rule therefore is that the earlier you submit, the less time the submission will spend until fully reviewed by the CLCS.

Second: the submission is of a very complicated nature where different legal and scientific requirements should be complied with and fulfilled. Therefore, the scientific side must not be given more emphasis over the legal side, and *vice versa*. Instead, they should go hand in hand. This is attributed to the inter-disciplinary approach of Article 76 and the established fact that the submission is a scientific study prepared and presented in a legal framework.

Third: most of the data included in the preliminary information are of indicative nature. As result, precise data of high quality need to be furnished to support the application of the provisions of Article 76 in drawing the outer limits of the continental shelf. The primary mirror here should be the Guidelines on which the CLCS reviews the submission. At the same time, an eye should be kept open at the work of the latter and any developments that might arise pertaining to the submission process. In the same vein, submissions by coastal states that are already considered by the CLCS and received recommendations should be also followed closely to find out how the CLCS applies the provisions of Article 76 and the Guidelines on the data included therein which might be of relevance to features that will be included in Oman's submission. Although there is a difficulty in getting enough information due to the confidentiality issue surrounding the submission process and ambiguity of setting precedents by the CLCS as a result of the periodical change in its membership, the situation might change in the future as demands have been increasingly voiced out even from the

CLCS calling for more transparency. Going thoroughly through the preliminary information, updates and further collection of data must be conducted to fulfil the requirements laid down in Article 76 starting from drawing the baselines to the delineation of the outer limits of the continental shelf using the formulae and constraints lines. The surveys probably have commenced recently or are about to start; therefore, making sure that the methods used to collect, interpret, visualise and manage the data are of a high quality is of crucial importance knowing that by the time the submission is considered by the CLCS, new methods are likely to emerge to the surface and over take the old ones. Equally important is the avoidance of unwanted errors by paying the utmost care in identifying the locations where the formulae and constraints lines should be drawn particularly the foot of the slope owing to its critical position in the whole process.

Fourth: preparing and making the submission is a costly exercise to which a lot of financial resources need to be devoted. Oman is a developing state and might view allocating budgets for the provision of tangible public services such as constructing schools and hospitals as having greater priority than the continental shelf project. Indeed, most of the financial resources required for preparing and making the submission will be spent on the surveys that are going to cover a geographic area double the size of its landmass. However, funds should be readily available until the recommendations are received from the CLCS, and waiting on the queue should not affect this position. Having said that, there should be a strong belief among the government's circles, especially those ones that are heavily involved in preparing the submission, that the submission is of a top priority to Oman and the next generations as well as it is an investment for the future because it constitutes a right that touches upon the sovereignty of the state. Therefore, the national Committee should consider the establishment of this belief as one of the important tasks it should work on. And the guiding principle should be that without funds, there is not progress.

Fifth: any potential overlap of entitlements with other coastal states should not be left to the last minute to negotiate. Given the effect it might have on the submission overall, it is of importance to deal with it as early as possible. Differently from other obstacles (legal and technical) which can be dealt with individually by and within the state, this one involves another person of international law. Therefore, reaching an understanding with opposite and adjacent states with whom there might be an overlap of maritime entitlement as a result of making the submission should be part and parcel of the preparation of the submission. Again, timing plays a significant role in this respect.

Sixth: the abovementioned will not be achieved without sound planning and having a clear strategy in place according to which all works are executed. The strategy shall be comprehensive and considered as the compass for the national Committee and all people involved in preparing the submission. The key factor here is the human resource which should both understand and implement the strategy as planned in terms of time and targets. If the said resource is not devoted for the continental shelf project, there will obviously be a lack of efficiency.

To conclude, this paper provided an early assessment of Oman's forthcoming submission to extend the outer limits of its continental shelf beyond the distance of 200 nautical miles from the baselines in light of the general process associated with submissions before the CLCS at a time when the submission to be made by Oman is still under preparation. It is the first time the subject is studied thoroughly from different angles at this important stage. Most of the data that has been consulted and discussed throughout the paper are those that are publicly available, and it has been realized that neither enough discussion nor researches of the subject exist among the media and academic communities in Oman. Such situation is actually disadvantageous as public awareness of this kind of issues plays a significant role in securing support to the project. This paper will be useful to those people who are working on the submission to understand the nature and tasks of continental shelf project in light of the big picture. It will also be useful for further research in the future whether during the consideration of the submission by the CLCS or after receipt of recommendations and establishment of the outer limits. As a final word, Article 76 is one of the most delicate articles of the LOSC which produces a law in its own. With all complexity and duties that are associated with it, the benefits that will be gained from its implementation are tremendous in many fields at a time the world is turning its eyes to the oceans for sustainable development and exploitation of resources as well as management and regulation.

Appendix 1: Number of ratifications and signatures of the 1958 Convention on the Continental Shelf.

| | Signature | Ratification, Accession(a), Succession(d) |
|--|-------------|---|
| Afghanistan | 30 Oct 1958 | |
| Albania | | 7 Dec 1964 a |
| Argentina | 29 Apr 1958 | |
| Australia | 30 Oct 1958 | 14 May 1963 |
| Belarus | 31 Oct 1958 | 27 Feb 1961 |
| Bolivia (Plurinational State of Bolivia) | 17 Oct 1958 | |
| Bosnia and Herzegovina ² | | 12 Jan 1994 d |
| Bulgaria | | 31 Aug 1962 a |
| Cambodia | | 18 Mar 1960 a |
| Canada | 29 Apr 1958 | 6 Feb 1970 |
| Chile | 31 Oct 1958 | |
| Colombia | 29 Apr 1958 | 8 Jan 1962 |
| Costa Rica | 29 Apr 1958 | 16 Feb 1972 |
| Croatia ² | | 3 Aug 1992 d |
| Cuba | 29 Apr 1958 | |

| | | |
|---------------------------------|-------------|---------------|
| Cyprus | | 11 Apr 1974 a |
| Czech Republic ^a | | 22 Feb 1993 d |
| Denmark | 29 Apr 1958 | 12 Jun 1963 |
| Dominican Republic | 29 Apr 1958 | 11 Aug 1964 |
| Ecuador | 31 Oct 1958 | |
| <u>Fiji</u> | | 25 Mar 1971 d |
| Finland | 27 Oct 1958 | 16 Feb 1965 |
| <u>France</u> | | 14 Jun 1965 a |
| Germany ^d | 30 Oct 1958 | |
| Ghana | 29 Apr 1958 | |
| Greece | | 6 Nov 1972 a |
| Guatemala | 29 Apr 1958 | 27 Nov 1961 |
| Haiti | 29 Apr 1958 | 29 Mar 1960 |
| Iceland | 29 Apr 1958 | |
| Indonesia | 8 May 1958 | |
| Iran (Islamic Republic of Iran) | 28 May 1958 | |
| Ireland | 2 Oct 1958 | |
| Israel | 29 Apr 1958 | 6 Sep 1961 |
| Jamaica | | 8 Oct 1965 a |
| Kenya | | 20 Jun 1969 a |
| Latvia | | 2 Dec 1992 a |
| Lebanon | 29 May 1958 | |
| Lesotho | | 23 Oct 1973 d |
| Liberia | 27 May 1958 | |
| Madagascar | | 31 Jul 1962 a |
| Malawi | | 3 Nov 1965 a |
| Malaysia | | 21 Dec 1960 a |
| Malta | | 19 May 1966 d |
| Mauritius | | 5 Oct 1970 d |
| Mexico | | 2 Aug 1966 a |
| Montenegro ^a | | 23 Oct 2006 d |
| Nepal | 29 Apr 1958 | |
| Netherlands ^d | 31 Oct 1958 | 18 Feb 1966 |
| New Zealand | 29 Oct 1958 | 18 Jan 1965 |

| | | |
|--|-------------|---------------|
| Nigeria | | 28 Apr 1971 a |
| <u>Norway</u> | | 9 Sep 1971 a |
| Pakistan | 31 Oct 1958 | |
| Panama | 2 May 1958 | |
| Peru | 31 Oct 1958 | |
| Poland | 31 Oct 1958 | 29 Jun 1962 |
| Portugal | 28 Oct 1958 | 8 Jan 1963 |
| Romania | | 12 Dec 1961 a |
| Russian Federation | 31 Oct 1958 | 22 Nov 1960 |
| Senegal ^z | | 25 Apr 1961 a |
| Serbia ^z | | 12 Mar 2001 d |
| Sierra Leone | | 25 Nov 1966 a |
| Slovakia ^a | | 28 May 1993 d |
| Solomon Islands | | 3 Sep 1981 d |
| South Africa | | 9 Apr 1963 a |
| Spain | | 25 Feb 1971 a |
| Sri Lanka | 30 Oct 1958 | |
| Swaziland | | 16 Oct 1970 a |
| Sweden | | 1 Jun 1966 a |
| Switzerland | 22 Oct 1958 | 18 May 1966 |
| Thailand | 29 Apr 1958 | 2 Jul 1968 |
| Tonga | | 29 Jun 1971 d |
| Trinidad and Tobago | | 11 Jul 1968 a |
| Tunisia | 30 Oct 1958 | |
| Uganda | | 14 Sep 1964 a |
| Ukraine | 31 Oct 1958 | 12 Jan 1961 |
| United Kingdom of Great Britain and Northern Ireland | 9 Sep 1958 | 11 May 1964 |
| United States of America | 15 Sep 1958 | 12 Apr 1961 |
| Uruguay | 29 Apr 1958 | |
| Venezuela (Bolivarian Republic of Venezuela) | 30 Oct 1958 | 15 Aug 1961 |

Source: The United Nations, available online at:

https://treaties.un.org/Pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=1&mtdsg_no=XXI-4&chapter=21&lang=en#Participants [Last accessed on 31/07/2014]

Appendix 2: Preliminary analysis of the ‘data and other material’.

5. Preliminary analysis of the submission

1. The sub-commission shall undertake a preliminary analysis of the submission in accordance with article 76 of the Convention and the Guidelines in order to determine:

- (a)** If the test of appurtenance is satisfied by the coastal State;
- (b)** Which portions of the outer limits of the continental shelf are determined by each of the formulae and constraint lines provided for in article 76 of the Convention and the Statement of Understanding;
- (b bis)** Whether appropriate combinations of foot of the continental slope points and constraint lines have been used;
- (c)** If the construction of the outer limits contains straight lines not longer than 60 M;
- (d)** If the sub-commission intends to recommend that the advice of specialists, in accordance with rule 57, or that the cooperation of relevant international organizations, in accordance with rule 56, be sought; and
- (e)** The estimated time required by the sub-commission to review all the data and prepare its recommendations for the Commission.

Source: Annex III (Modus Operandi) of the ROP, at pp.27-28.

Appendix 3: The scientific and technical examination of the ‘data and other material’.

IV. Main scientific and technical examination of the submission

9. Examination of the submission

1. The sub-commission shall conduct an examination of the submission based on the Guidelines in order to evaluate the following, where applicable:

- (a)** The data and methodology employed by the coastal State, or coastal States in the case of joint submissions, to determine the location of the foot of the continental slope;
- (b)** The methodology used to determine the formula line at a distance of 60 M from the foot of the continental slope;
- (c)** The data and methodology used to determine the formula line delineated by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope, or not less than 1 kilometre in the cases in which the Statement of Understanding applies;
- (d)** The data and methodology employed in the determination of the 2,500-metre isobath;
- (e)** The methodology used to determine the constraint line at a distance of 100 M from the 2,500-metre isobath;
- (f)** The data and methodology used to determine the constraint line at a distance of 350 M from the baselines from which the breadth of the territorial sea is measured;
- (g)** The construction of the formulae line as the outer envelope of the two formulae;

- (h) The construction of the constraint line as the outer envelope of the two constraints;
- (i) The construction of the inner envelope of the formulae and constraint lines;
- (j) The delineation of the outer limit of the continental shelf by means of straight lines not longer than 60 M with a view to ensuring that only the portion of the seabed that satisfies all the provisions of article 76 of the Convention and the Statement of Understanding is enclosed;
- (k) The estimates of the uncertainties in the methods applied, with a view to identifying the main source(s) of such uncertainties and their effect on the submission; and, in all cases,
- (l) That the data submitted are sufficient in terms of quantity and quality to justify the proposed limits.

Source: Annex III (Modus Operandi) of the ROP, at pp. 29-30.

Appendix 4: The correlation between the provisions in Article 76 and the various sciences that are required to implement them.

4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends [GEOLOGY] beyond 200 M from the baselines from which the breadth of the territorial sea is measured [GEODESY], by either:

(i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks [GEOPHYSICS] is at least 1 per cent of the shortest distance [GEODESY] from such point to the foot of the continental slope [GEOMORPHOLOGY]; or

(ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 M [GEODESY] from the foot of the continental slope [GEOMORPHOLOGY].

(b) In the absence of evidence to the contrary [GEOLOGY - GEOPHYSICS], the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base [GEOMORPHOLOGY].

5. The fixed points comprising the line of the outer limits of the continental shelf on the seabed, drawn in accordance with paragraph 4(a)(i) and (ii), either shall not exceed 350 M from the baselines from which the breadth of the territorial sea is measured [GEODESY] or shall not exceed 100 M from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres [GEODESY (distance) - HYDROGRAPHY (isobath)].

6. Notwithstanding the provisions of paragraph 5, on submarine ridges [GEOLOGY], the outer limit of the continental shelf shall not exceed 350 M [GEODESY] from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs [GEOLOGY].

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 M from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 M in length, connecting fixed points, defined by coordinates of latitude and longitude [GEODESY].

Source: DOALOS Manual, Legal Framework, at pp. I-55 & I-56.

Appendix 5: Practical suggestions concerning the final preparation and deposit of submissions to the CLCS through the Secretary General of the UN.

Practical suggestions concerning the final preparation
and deposit of submissions to the CLCS
through the Secretary-General of the United Nations

The structure, content and format of the submission are addressed by the rules of procedure of the Commission on the Limits of the Continental Shelf (CLCS/40/Rev.1) and the Scientific and Technical Guidelines of the Commission (CLCS/11 and CLCS/11/Add.1). Both documents are available at:
http://www.un.org/Depts/los/clcs_new/commission_documents.htm

This list of practical suggestions concerning the finalization of the submission as well as the process of its deposit is provided to further assist coastal States that are planning to make a submission to the Commission.

Scheduling of the delivery

The Permanent Mission to the United Nations of the coastal State that plans to make a submission to the Commission on the Limits of the Continental Shelf should contact the Secretariat of the CLCS (Telephone: (212) 963-3194/963-3945/963-3962 – Fax (212) 963-5847), in order to arrange the time of the delivery as well as its modalities (see below).

Modalities of the delivery

Normally the delivery of the submission can be carried out by a representative or delegation from the Permanent Mission or by a messenger authorized for this purpose.

Location for the delivery

The submission should be delivered to the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs of the United Nations. The address of the Division is: 2 United Nations Plaza (fourth floor), New York, NY 10017. The entrance to the building is located on 44th Street between 1st and 2nd Avenues.

Important: boxes, carts, and other large items need to be brought to the Division through the loading dock of 2 United Nations Plaza is located on 45th Street between 1st and 2nd Avenues in view of the existing security requirements in place. For the purposes of delivery of submissions, the loading dock may be used from 10am to 12pm and from 1 to 5 pm.

Note verbale of transmittal

The submission needs to be accompanied by a note verbale addressed to the Secretary-General of the United Nations.

Verification of completeness of the submission and acknowledgement of receipt

The Division will ensure that the documentation is complete and will acknowledge receipt of the submission by note verbale.

In order to facilitate the verification that the submission has been received in its entirety, it is very important that the submission contain a **table of contents** with a detailed listing of all the submission's contents, including annexes, maps, charts, CDs, DVDs, bibliography (if any).

Number of copies and hard copy version and electronic version of the submission

Section I, paragraph 1.2, of Annex III to the rules of procedure of the Commission prescribes the number of copies necessary for both the hard copy version and the electronic version of the submission.

As States typically make their submission both in hard copy and electronic copy, attention is drawn to the following provision included in the above-mentioned Section: "One electronic copy should be made in a secure unalterable format (e.g., locked pdf file), and should be certified by the coastal State to be identical to the hard copy version; the other electronic copy should be open. In the case of any discrepancies between the secure electronic copy and the hard copy of the submission, the latter will be deemed to be the primary source, unless the coastal State indicates otherwise."

Data classified as confidential under Annex II to the rules of procedure

All submissions are treated confidentially, in the sense that only members of the Commission and designated staff members of the Secretariat have access to them. The rules of procedure also provide the submitting State with the possibility to request an even stricter confidentiality (see Annex II to the rules of procedure): if a submission contains data and material for which the coastal State invokes confidentiality under Annex II of the rules of procedure, such data and material shall be submitted in a separate sealed package, with a list of the material included therein.

During the sessions of the Commission, submissions are examined in the GIS laboratories of the Division. For submissions for which the provisions of Annex II have not been invoked, in order to expedite the work of the Commission and the preparation of the recommendations, a question arises as to whether the submitting State wishes to allow the possibility for members of the Commission to have access to all material also outside of United Nations Headquarters during the intersessional period. This access would take place on the understanding that the data and material will be used solely for the purposes of considering the submission and will not be shared with persons who are not members of the Commission or the Secretariat, in conformity with the general confidentiality requirements that apply to all submissions, including those not covered by Annex II to the rules of procedure. In order for the submitting State to allow such access to the material outside of the premises of the Division during the intersessional period, a declaration to this effect may be preferably included in the note verbale accompanying the submission.

Naming Conventions

Below are a few suggestions concerning the naming conventions that might be followed in the preparation of a submission. This is not a requirement, but merely a suggestion to facilitate the cataloguing and archiving of documents. In the examples below XXX should be replaced with a three-letter code to represent the name of the coastal State making the submission.

- Document: YYYY-MM-DD_XXX-DOC-001;
- PowerPoint Presentation: YYYY-MM-DD_XXX -PRE-001;
- Map: YYYY-MM-DD_XXX -MAP-001;
- CD/DVD: YYYY-MM-DD_XXX -DISC-001;
- Note verbale YYYY-MM-DD_XXX -NV-001;
- Letter: YYYY-MM-DD_XXX -LET-001.

Ideally the name of each letter, document, PowerPoint presentation and map should be printed on each page (in the header or footer thereof).

Important: in adopting a naming convention for the electronic version of the submission, it would be appreciated if the names of any folders/directories/files are kept short enough so that the total number of characters in the path leading to that file not to exceed 241 characters, to prevent that the data gets compromised during back-up operations on the servers of the Commission.

Page/slide numbering

In order to ensure their integrity and correct internal sequencing, all letters and documents should include page numbers in the footer or header. Similarly, all PowerPoint slides should be numbered.

Labelling/Marking

All CDs/DVDs should be labelled by the Delegation. The label should contain:

- the title of the submission;
- the identification number of the CD/DVD

If provided in a jewel box, the cover and spine of the box should contain the same information included on the label of the CD and a table of contents.

Maps/charts/illustrations

The hard copy of all maps/charts/illustrations should ideally be in colour if the electronic version is in colour too.

Focal point for joint submissions

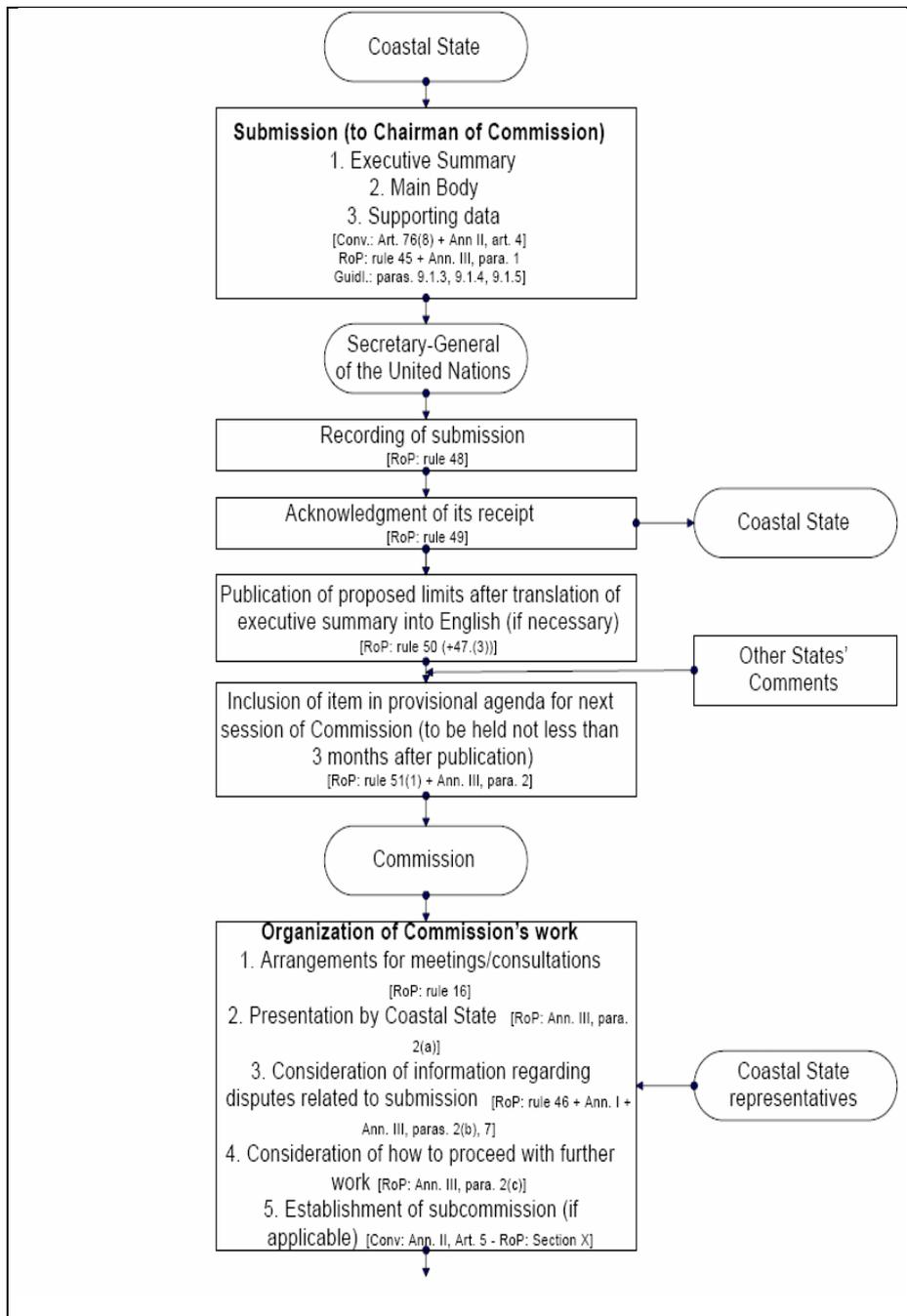
In case two or more States decide to make a joint submission, it is strongly suggested that they appoint a focal point. For the sake of proper coordination, all communications between the delegations involved, on the one hand, and the Commission and/or the Secretariat, on the other hand, would take place through such focal point.

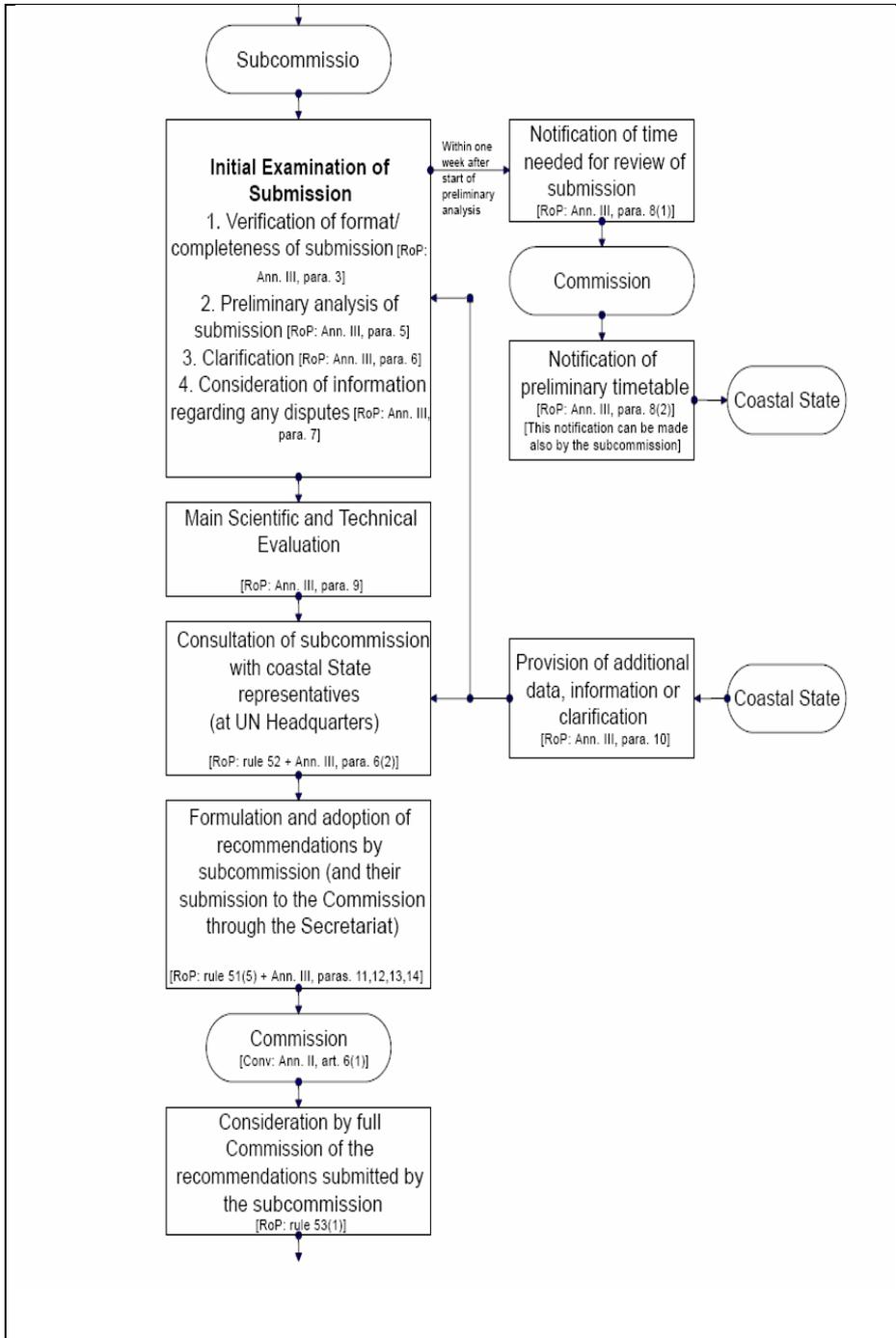
Financial assistance received from the Trust Fund for the purpose of facilitating the preparation of submissions

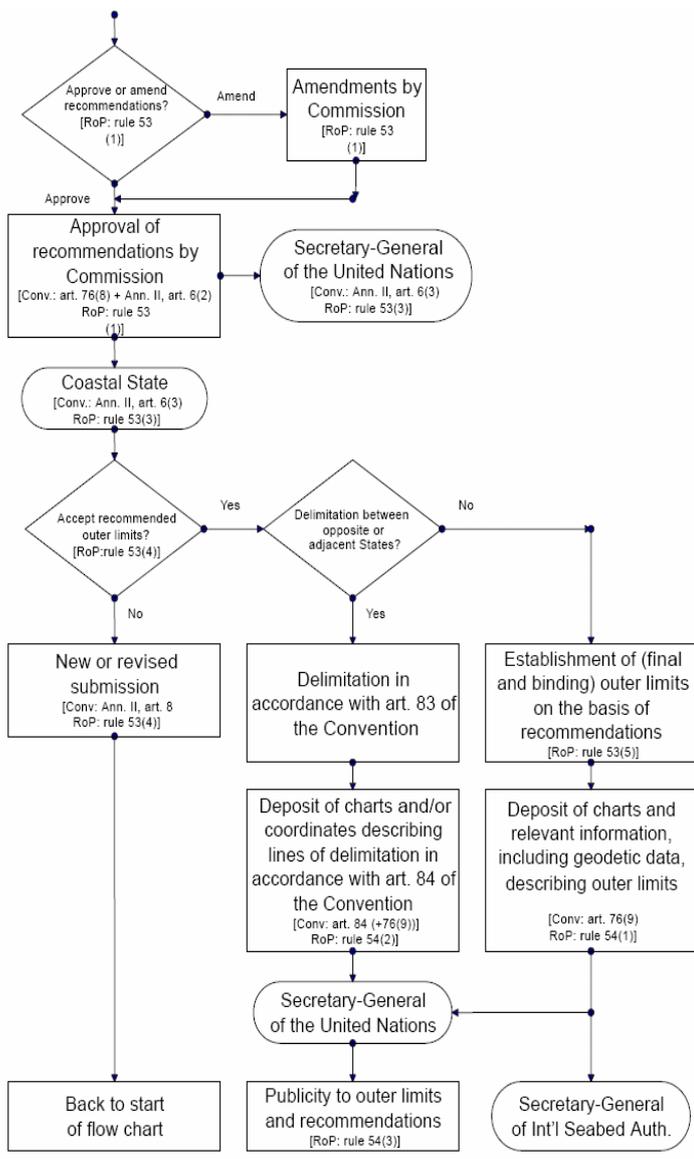
According to paragraph 27 of the Terms of Reference of the Trust Fund, upon submission to the Commission of its information on the limits of its continental shelf pursuant to article 76 of the Convention, a coastal State that has received assistance from this Fund shall disclose this information, including the involvement of any Commission members.

Source: DOLAOS, CLCS webpage, available at:
http://www.un.org/depts/los/clcs_new/practicalsuggestions.pdf [last accessed 12/09/2014].

Appendix 6: Summary flow chart of the procedures concerning a submission made to the CLCS.







Source: Part VII of Annex III (Modus Operandi) to the ROP, at pp. 33-35.

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