

# Annex I of the Rules of Procedure of the CLCS and its implementation by States

1999 – 2009

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# Overview

- Purpose of Annex I
- Relevant provisions contained in UNCLOS
- The drafting and the adoption of Annex I
  - Paragraph 3: Partial Submissions
  - Paragraph 4: Joint or Separate Submissions
  - Paragraph 5(a): Agreement/disagreement to the consideration
- The message of the CLCS to States since May 2009
- Conclusions

# Disclaimer

“The views expressed herein are solely those of the author and do not necessarily reflect the views of the Commission on the Limits of the Continental Shelf.”

Internal code of conduct for members of the Commission on the Limits of the Continental Shelf, Section 6 (CLCS/47, 8 September 2005)

## Purpose of Annex I

Address cases of submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes in accordance with the relevant provisions of the Convention:

- Part VI, Continental Shelf, article 76, Definition of the continental shelf, paragraph 10
- Annex II. Commission on the Limits of the Continental Shelf, article 9

# Relevant provisions of UNCLOS relating to disputes in the context of article 76

## Part VI, Continental Shelf, article 76, Definition of the continental shelf, paragraph 10:

*10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.*

## Annex II. Commission on the Limits of the Continental Shelf, article 9:

*The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.*

## Evolution of the Rules of Procedure of the CLCS

- Draft Rules of Procedure of the Commission on the Limits of the Continental Shelf (SPLOS/CLCS/WP.1 26 July 1996) prepared by the Secretariat at the request of the Meeting of SPLOS.
- Considered and amended at First and Second Sessions of the Commission. Adopted at Second Session, excluding Annex I and II (CLCS/3, 12 September 1997).
- Adopted with Annexes I and II at the Fourth Session (CLCS/3/Rev.2, 4 September 1998).

# Evolution of the Rules of Procedure of the CLCS

- Adopted with Annex III at the Thirteenth Session (CLCS/40, 2 July 2004 ).
- Adopted with amendments at the twenty-first Session (CLCS/40/Rev. 1, 17 April 2008)

# Rules of Procedure, Annex I

Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes

- Text drafted by a working group during the Second and Third Sessions (2 - 12 September 1997, and 4 - 15 May 1998).
- Text, agreed by the CLCS at Third Session, forwarded to 8th Meeting SPLOS (18 - 22 May 1998) for consultation and commentary
- Editorial changes made at Fourth Session prior to final adoption by the CLCS on 4 September 1998

# Rule of Procedure of the CLCS

## Rule 46

*Submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes*

- 1. In case there is a dispute in the delimitation of the continental shelf between opposite or adjacent States or in other cases of unresolved land or maritime disputes, submissions may be made and shall be considered in accordance with Annex I to these Rules.*
- 2. The actions of the Commission shall not prejudice matters relating to the delimitation of boundaries between States.*

## Annex I, Paragraph 1

1. The Commission recognizes that the competence with respect to matters regarding disputes which may arise in connection with the establishment of the outer limits of the continental shelf rests with States.

## Annex I, Paragraph 2

2. In case there is a dispute in the delimitation of the continental shelf between opposite or adjacent States, or in other cases of unresolved land or maritime disputes, related to the submission, the Commission shall be:
  - (a) Informed of such disputes by the coastal States making the submission; and
  - (b) Assured by the coastal States making the submission to the extent possible that the submission will not prejudice matters relating to the delimitation of boundaries between States.

## Annex I, , Paragraph 3 Partial Submissions

3. A submission may be made by a coastal State for a portion of its continental shelf in order not to prejudice questions relating to the delimitation of boundaries between States in any other portion or portions of the continental shelf for which a submission may be made later, notwithstanding the provisions regarding the ten-year period established by article 4 of Annex II to the Convention.

## Annex I, Paragraph 4

### Joint or Separate Submissions

4. Joint or separate submissions to the Commission requesting the Commission to make recommendations with respect to delineation may be made by two or more coastal States by agreement:
  - (a) Without regard to the delimitation of boundaries between those States; or
  - (b) With an indication, by means of geodetic coordinates, of the extent to which a submission is without prejudice to the matters relating to the delimitation of boundaries with another or other States Parties to this Agreement.

## Annex I , Paragraph 5

### Agreement as a requisite to consideration

5. (a) 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. However, the Commission may consider one or more submissions in the areas under dispute with prior consent given by all States that are parties to such a dispute.
  
5. (b) The submissions made before the Commission and the recommendations approved by the Commission thereon shall not prejudice the position of States which are parties to a land or maritime dispute

## Annex I , Paragraph 6

### Request for cooperation

6. The Commission may request a State making a submission to cooperate with it in order not to prejudice matters relating to the delimitation of boundaries between opposite or adjacent States.

Submissions	Notes Verbales
1. Russian Federation 20 December 2001	Canada, Denmark, Japan, Norway, and USA
2. Brazil 17 May 2004	USA
3. Australia 15 November 2004	USA, Russian Federation, Japan, The Democratic Republic of Timor-Leste, France, The Netherlands, Germany, and India
4. Ireland - Porcupine Abyssal Plain 25 May 2005	Denmark and Iceland
5. New Zealand 19 April 2006	Fiji, Japan, France, The Netherlands, and Tonga
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	Denmark, Iceland, Russian Federation, and Spain
8. France - in respect of the areas of French Guiana and New Caledonia 22 May 2007	Vanuatu, New Zealand, and Suriname
9. Mexico - in respect of the western polygon in the Gulf of Mexico 13 December 2007	

Submissions	Notes Verbales
10. Barbados 8 May 2008 See CLCS/60	Suriname, Trinidad and Tobago, and Venezuela
11. United Kingdom of Great Britain and Northern Ireland - Ascension Island 9 May 2008	Netherlands
12. Indonesia - North West of Sumatra Island 16 June 2008	India and Indonesia
13. Japan 12 November 2008 See CLCS/62	USA, China, Republic of Korea, and Palau
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 See CLCS/64	France, Trinidad and Tobago, and Barbados
16. Myanmar 16 December 2008 See CLCS/64	Sri Lanka, India, Kenya, and Bangladesh
France - areas of the French Antilles and the Kerguelen Islands 5 February 2009	Netherlands
18. Yemen - in respect of south east of Socotra Island 20 March 2009	Somalia
19. United Kingdom of Great Britain and Northern Ireland - in respect of Hatton Rockall Area 31 March 2009	Iceland and Denmark

Submissions	Notes Verbales
20. Ireland - in respect of Hatton-Rockall Area 31 March 2009 See CLCS/64	Iceland and Denmark
21. 21. Uruguay 7 April 2009 See CLCS/64	
22. Philippines - in the Benham Rise region 8 April 2009	
23. 23. The Cook Islands - concerning the Manihiki Plateau 16 April 2009 See CLCS/64	New Zealand
24. Fiji 20 April 2009	New Zealand and Vanuatu
25. Argentina 21 April 2009	United Kingdom, USA, Russian Federation, India, and Netherlands
26. Ghana 28 April 2009	Nigeria
27. Iceland - in the Ægir Basin area and in the western and southern parts of Reykjanes Ridge 29 April 2009	Denmark and Norway
28. Denmark - in the area north of the Faroe Islands 29 April 2009 See CLCS/64	Iceland and Norway
29. Pakistan 30 April 2009	Oman

Submissions	Notes Verbales
30. Norway - in respect of Bouvetøya and Dronning Maud Land 4 May 2009	USA, Russian Federation, India, and Netherlands
31. South Africa - in respect of the mainland of the territory of the Republic of South Africa 5 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 6 May 2009	China, Viet Nam, Malaysia, Philippines, Viet Nam, and Malaysia
34. Joint submission by France and South Africa - in the area of the Crozet Archipelago and the Prince Edward Islands 6 May 2009	
35. Kenya 6 May 2009	Sri Lanka and Somalia
36. Mauritius - in the region of Rodrigues Island 6 May 2009	
37. Viet Nam - in North Area (VNM-N) 7 May 2009	China, Viet Nam, Philippines, and Viet Nam
38. Nigeria 7 May 2009	Ghana

Submissions	Notes Verbales
39. Seychelles - concerning the Northern Plateau Region 7 May 2009	
France - in respect of La Réunion Island and Saint-Paul and Amsterdam Islands 8 May 2009	
41. Palau 8 May 2009	Philippines
42. Côte d'Ivoire 8 May 2009 See CLCS/64	Ghana
43. Sri Lanka 8 May 2009	Maldives
44. Portugal 11 May 2009	Morocco and Spain
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	Argentina
46. Tonga 11 May 2009 New Zealand	
Spain - in respect of the area of Galicia 11 May 2009	Morocco and Portugal
48. India 11 May 2009	Union of Myanmar and Bangladesh

<b>Submissions</b>	<b>Notes Verbales</b>
49. Trinidad and Tobago 12 May 2009	Suriname
50. Namibia 12 May 2009	
51. Cuba 1 June 2009	USA and Mexico

# Twenty Eight Partial Submissions

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
11. United Kingdom of Great Britain and Northern Ireland - Ascension Island 9 May 2008
12. Indonesia - North West of Sumatra Island 16 June 2008
14. Joint submission by the Republic of Mauritius and the Republic of Seychelles - in the region of the Mascarene Plateau 1 December 2008
17. France - areas of the French Antilles and the Kerguelen Islands 5 February 2009
19. United Kingdom of Great Britain and Northern Ireland - in respect of Hatton Rockall Area 31 March 2009

## Twenty Eight Partial Submissions (cont.)

20. Ireland - in respect of Hatton-Rockall Area 31 March 2009
22. Philippines - in the Benham Rise region 8 April 2009
24. Fiji 20 April 2009
27. Iceland - in the Ægir 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
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 5 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 6 May 2009
34. Joint submission by France and South Africa - in the area of the Crozet Archipelago and the Prince Edward Islands 6 May 2009
36. Mauritius - in the region of Rodrigues Island 6 May 2009
37. Viet Nam - in North Area (VNM-N) 7 May 2009

## Twenty Eight Partial Submissions (cont.)

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
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
46. Tonga 11 May 2009
47. Spain - in respect of the area of Galicia 11 May 2009

## Five Joint Submissions

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

14. Joint submission by the Republic of Mauritius and the Republic of Seychelles - in the region of the Mascarene Plateau 1 December 2008

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 6 May 2009

34. Joint submission by France and South Africa - in the area of the Crozet Archipelago and the Prince Edward Islands 6 May 2009

## Agreement to the consideration and non - prejudice

Two categories:

- Undelimited cases where there is a land and/or maritime dispute
- Undelimited cases where there is no land and/or maritime dispute

Only the first case is contemplated under Annex I. The second case is considered under article 76 paragraph 10. Some States have decided to exercise this practice, others have not. Not all undelimited boundary cases are necessarily cases of disputes.

## Agreement to the consideration in a disputed area Note Verbale by Norway 2 April 2002

The delimitation of the continental shelf between Norway and the Russian Federation has not yet been settled and is the object of ongoing consultations. The unresolved delimitation issue in the Barents Sea is therefore to be considered as a "maritime dispute" for the purposes of rule 5 (a) of Annex I to the Rules of Procedure of the Commission.

...

On all the above understandings, Norway consents, in accordance with the said rule 5 (a), to an examination by the Commission of the Russian submission with regard to the "area under dispute" as described above.

## Agreement to the consideration in a disputed area Note Verbale by the Russian Federation 21 February 2007

The delimitation of the continental shelf between the Russian Federation and Norway has not been settled and is the subject of ongoing consultations. . The unresolved delimitation issue in the Barents Sea is therefore to be considered as a "maritime dispute" for the purposes of rule 5 (a) of Annex I to the Rules of Procedure of the Commission.

...

On the above understandings, the Russian Federation, in accordance with the said rule 5 (a), to an examination by the Commission of the Russian submission with regard to the "area under dispute" as described above.

## Notes of disagreement to the consideration

- Japan vis-à-vis the Russian Submission (Sea of Okhotsk)
- Vanuatu vis-à-vis the French Submission (Matthew and Hunter)
- Iceland vis-à-vis the submissions made by United Kingdom and Ireland (Hatton-Rockall Area)
- Vanuatu vis-à-vis the submission made by Fiji
- UK vis-à-vis the submission made by Argentina (Malvinas)
- China and Philippines vis-à-vis the Submission made by Malaysia and Viet Nam (Southern part of the South China)
- China and Philippines vis-à-vis the Submission made by Viet Nam (Northern Part)
- Argentina vis-à-vis the submission made by the UK (Falklands)
- The special case of Antarctica: Submissions made by Australia, New Zealand, Norway, Argentina,

## Two categories outside the scope of Annex I

- Postponement to the consideration of a Submission:
  - Denmark vis-à-vis the Submission made by Ireland in respect of Hatton-Rockall Area
  - Oman vis-à-vis the submission made by Pakistan
- Interpretation of one or more provisions in the Convention
  - USA vis-à-vis the Submissions made by the Russian Federation and Brazil
  - Korea and China vis-à-vis the Submission made by Japan
  - Sri Lanka and India vis-à-vis the Submissions made by Myanmar
  - Sri Lanka vis-à-vis the Submissions made by and Kenya

## The message of the CLCS to States in cases of disputes since May 2009

... Taking into account these notes verbales and the presentation made by the delegation, the Commission decided to defer further consideration of the submission and the notes verbales until such time as the submission is next in line for consideration as queued in the order in which it was received. The Commission took this decision in order to take into consideration any further developments that might occur throughout the intervening period during which States may wish to take advantage of the avenues available to them, including provisional arrangements of a practical nature as contained in annex I to its rules of procedure.

# Conclusions

- Purpose of Annex I Relevant provisions contained in UNCLOS
- Annex I - 76 (10) Annex II article 9, MOSP consultation and State practice
  - Paragraph 3: 28 partial submissions
  - Paragraph 4: 5 joint submissions
  - Paragraph 5(a): Notes of agreement and non-prejudice
  - Paragraph 5 (a): 8 Submissions with notes of disagreement /objection
  - Antarctica
- The message of the CLCS to States from 1999 to 2009:  
... competence regarding disputes rests with States.