

## The mission and practice of the Commission on the Limits of the Continental Shelf (CLCS)

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30<sup>th</sup> Anniversary of the UNCLOS from the Perspective of CLCS, Tokyo, 11 July, 2012

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## 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.*

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## Purpose of the Commission (CLCS)

The purpose of the Commission on the Limits of the Continental Shelf (the Commission or CLCS) is to facilitate the implementation of the United Nations Convention on the Law of the Sea (the Convention) in respect of the establishment of the outer limits of the continental shelf beyond 200 nautical miles (M) from the baselines from which the breadth of the territorial sea is measured. Under the Convention, the coastal State shall establish the outer limits of its continental shelf where it extends beyond 200 M on the basis of the recommendation of the Commission. The Commission shall make recommendations to coastal States on matters related to the establishment of those limits; its recommendations and actions shall not prejudice matters relating to the delimitation of boundaries between States with opposite or adjacent coasts.

(CLCS Home page [http://www.un.org/Depts/los/clcs\\_new/](http://www.un.org/Depts/los/clcs_new/))

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## CLCS: Commission on the Limits of the Continental Shelf

Functions(任務): (Article 3, Annex II of UNCLOS)

- (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.

(大陸棚の外側の限界が二百海里を超えて延びている区域における当該限界に関して沿岸国が提出したデータその他の資料を検討すること及び了解声明に従って勧告を行うこと。)

- (b) to provide scientific and technical advice if requested by coastal State concerned during the preparation of the data referred to in subparagraph (a).

(関係する沿岸国の要請がある場合には、(a)のデータの作成に関して科学上及び技術上の助言を与えること。)(和訳は参考のため)

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## CLCS: Commission on the Limits of the Continental Shelf

(Formation): (Article 2, Annex II of UNCLOS)

- The Commission shall consist of 21 members who shall be **experts in the field of geology, geophysics or hydrography**, elected by States Parties to this Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.

(委員会は、二十一人の委員で構成される。委員は、締約国が衡平な地理的代表を確保する必要性に妥当な考慮を払って締約国の国民の中から選出する地質学、地球物理学又は水路学の分野の専門家である者とし、個人の資格で職務を遂行する。)

- The State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties.

(委員会の委員の指名を行った締約国は、当該委員が委員会の任務を遂行する間その費用を負担する。)

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## CLCS in Brief

### Membership:

- 21 members - experts in geology, geophysics, hydrography – *no requirement for legal expertise*
- Election by States Parties of all 21 members for 5 year term
- Equitable geographic (UN) representation – Africa, Asia, Eastern Europe, Latin America, Western European & others
- Members serve in their personal capacity
- Expenses defrayed by nominating State

**Based at UN Headquarters, New York**  
**Secretariat provided by SG of UN – DOALOS**

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## Interim Summary

- CLCS members - experts in geology, geophysics, hydrography – *no requirement for legal expertise*
- *CLCS only deals with the issues concerning the application of article 76 and Annex II of the Convention.*
- Clear contrast to the mission of ITLOS: *The Tribunal has jurisdiction over all disputes concerning the interpretation or application of the Convention, subject to the provisions of article 297.....*
- However, it is not the weakness of the CLCS but the strength, if CLCS continues to follow the established procedure by maintaining its impartiality and independency.

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## CLCS Members and DOALOS Staffs



28<sup>th</sup> Session in August 2011 at North Lawn Building, UN

(Dr. Abu-Bakar Jaafar is missing)

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## New Members (20)

	Name	Nationality	Speciality
1	Arshad, Muhammad	Pakistan	Hydrographer
2	Awosika, Lawrence Folajimi	Nigeria	Geologist
3	Carrera, Galo	Mexico	Hydrographer
4	Charles, Francis L.	Trinidad and Tobago	Hydrographer
5	Glumov, Ivan F.	Russian Federation	Geologist
6	Haworth, Richard Thomas	Canada	Geophysicist
7	Heinesen, Martin Vang	Denmark	Geologist
8	Jaoshvili, George	Georgia	Geologist
9	Kalngui, Emmanuel	Cameroon	Geologist
10	Lu, Wenzheng	China	Geologist
11	Madon, Mazlan Bin	Malaysia	Geophysicist
12	Mahanjane, Estevo Stefano	Mozambique	Geologist
13	Marques, Jair Alberto Ribas	Brazil	Hydrographer
14	Njuguna, Simon	Kenya	Geologist
15	Oduro, Isaac Owusu	Ghana	Geologist
16	Park, Yong Ahn	Republic of Korea	Geologist
17	Paterlini, Carlos Marcelo	Argentina	Geophysicist
18	Rajan, Sivaramakrishnan	India	Geologist
19	Roest, Walter R.	Netherlands/France	Geologist
20	Urabe, Tetsuro	Japan	Geologist

Elected on 6 June 2012 at 22<sup>nd</sup> SPLOS Meeting. (Re-elected)

One more members to be elected later from an East European country.

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## Size of Increasing Task CLCS is Facing

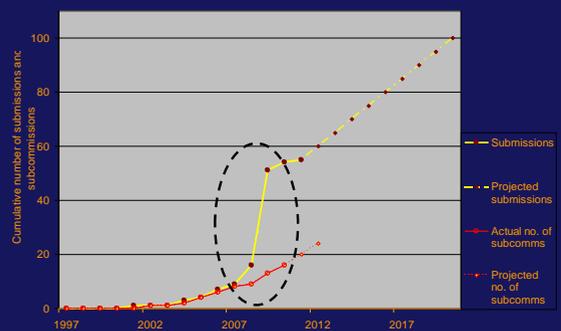
- 60 primary submissions received to date - 35 during 2009, and another 9 since then.
  - 30 partial and 5 of these were joint submissions.
  - Plus 1 revised submission (Barbados).
- 45 sets of preliminary information deposited in accordance with SPLOS/183 (3 have been converted to full submissions 42 remain).
- Potential for ~100 submissions to in spite of the original estimate of 30+.
 

(This does not take into account potential revised or new submissions arising from recommendations, or new parties to the Convention.)

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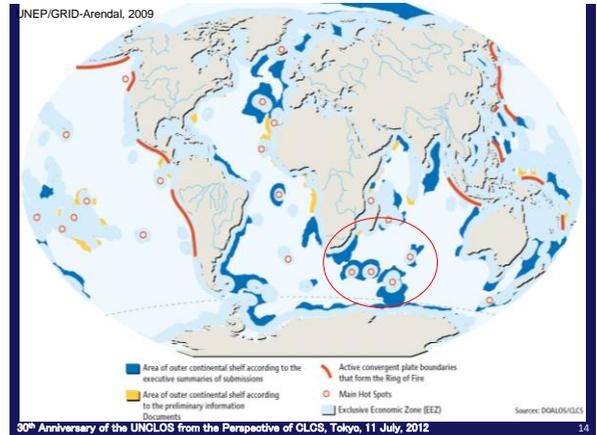
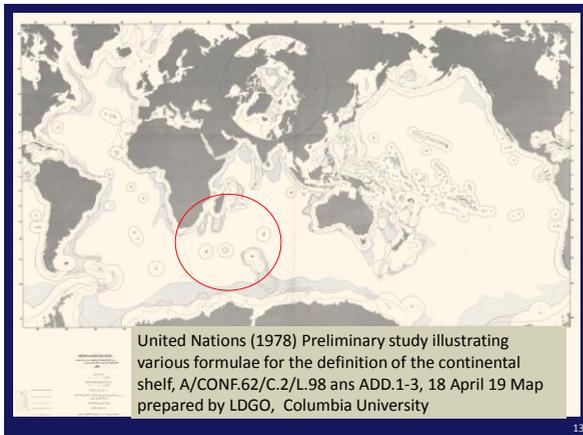
## Submission Rate and Progress



(After P. Symonds, 2011)

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### Issue on Increasing Workload of CLCS

- The implementation of the SPLOS/229 decision (June 2011) requesting the CLCS to consider meeting in New York "...for up to 26 weeks but not less than intended minimum of 21 weeks a year for a period of five years ...", and;
- The related matter of ensuring the necessary financial and other support for members of the CLCS, and appropriate resources for its Secretariat.
- Potential change in characteristics of members due to increased time in New York (e.g. active versus retired)
- Three positions increased for its Secretariat. CLCS may increase the number of Subcommittees from 3 to 4.

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### The Wishful Image of CLCS; Tireless Machine?



- Quick and timely service
- Works 26 weeks a year in NY
- No salary needed
- No additional budget needed

Consistent financial and other support for members of the CLCS are necessary to solve the issue.

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### Output of CLCS – Recommendations

- To date, the Commission has adopted recommendations for 17 of the 60 submissions
- 15 of these recommendations were adopted during the last 5 years (4 in the last year).
- So far three States have deposited with the Secretary-General the outer limits of their continental shelf established on the basis of the recommendations of the Commission (partial submissions of Ireland, Mexico, and Australia).

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### Recommendations to Date (14)

Submission (Submission date)	Adopted
1. Russia – Dec. 2001	27 June 2002
2. Brazil - May 2004	4 April 2007
3. Australia - Nov. 2004	9 April 2008
4. *Ireland (P) - May 2005	5 April 2007
5. New Zealand (P?) - April 2006	22 Aug 2008
6. Fr, Ir, Sp, Uk (FISU) (joint/P) - May 2006	24 Mar 2009
7. Norway (P) - Nov. 2006	27 Mar 2009
8. France - French Guiana/New Cal (P) - May 2007	2 Sept 2009
9. *Mexico (P) - Dec. 2007	31 Mar 2009
10. Barbados - May 2008	15 April 2010
11. UK – Ascension (P) - May 2008	15 April 2010
12. Indonesia - NW of Sumatra (P) - June 2008	28 Mar 2011
13. Mauritius/Seychelles (joint/P) - Dec. 2008	30 Mar 2011
14. Suriname - Dec. 2008	30 Mar 2011
10a. Barbados - July 2011	13 April 2012
13. Japan - Nov. 2008	19 April 2012
17. France - French Antilles/Kerguelen Is. - Feb. 2009	19 April 2012
18. Philippines - Benham Rise region – April 2009	12 April 2012

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## Submissions under Consideration

*Submission* *Date submitted*

- |  |               |
|--|---------------|
| 16. Myanmar <discuss. w/ Bangladesh?>          | 16 Dec. 2008  |
| 18. Yemen - southeast of Socotra Is. <Somalia> | 20 March 2009 |
| 19. United Kingdom - Hatton Rockall <Ireland>  | 31 March 2009 |
| 20. Ireland - Hatton-Rockall Area <UK>         | 31 March 2009 |
| 21. Uruguay (new data submission?)             | 7 April 2009  |
| 23. Cook Islands - Manihiki Plateau            | 16 April 2009 |
| 24. Fiji <dispute from Vanuatu>                | 20 April 2009 |
| 25. Argentina <dispute in part? from UK>       | 21 April 2009 |
| 26. Ghana <no objection notes>                 | 28 April 2009 |
| 27, 28, 29, ..... or any resubmission?         |               |

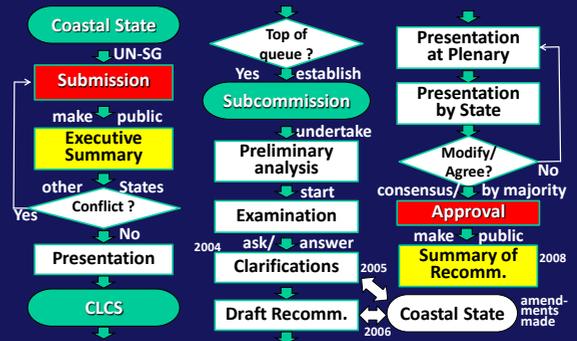
*There are currently two active Subcommissions. Third one will be established in 30<sup>th</sup> Session from the list given above.*

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## Processes for Making Recommendation

*(Simplified from CLCS/40/Rev.1 Modus Operandi)*



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## Procedures for Making Recommendation

- Amendments were made during 2005-2006 that the coastal States shall have the opportunity to provide a response to the presentation of the Subcommission (SC).
- CLCS adopts recommendations and their summaries, with or without amendment, as initially drafted by a SC.
- CLCS and its SCs make every effort to reach agreement on substantive matters, particularly recommendations, by way of consensus.
- If consensus cannot be achieved, decisions are taken by a two-thirds majority of the members present and voting.
- i.e all parts of all recommendations are not necessarily agreed to by all members of the CLCS, but are, at a minimum, supported by a two-thirds majority.

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## ADOPTION OF RECOMMENDATIONS

Submissions	Result	Adopted	How
1. Russia	Some	27 June 2002	Con
2. Brazil	Some	4 April 2007	15/2/0
3. Australia	Most	9 April 2008	14/3/1
4. Ireland	Most	5 April 2007	14/2/2
5. New Zealand	Most	22 Aug 2008	13/3/3
6. FISU	Most	24 Mar 2009	Con
7. Norway	Most	27 Mar 2009	Con
8. France	Some	2 Sept 2009	Con
9. Mexico	Most	31 Mar 2009	Con
10. Barbados	Most	15 April 2010	Con
11. UK – Ascension	None	15 April 2010	Con
12. Indonesia - NW of Sumatra	Most	28 Mar 2011	11/2/2
13. Mauritius/Seychelles	Most	30 Mar 2011	Con
14. Suriname	Most	30 Mar 2011	Con
10a. Barbados	Most	13 April 2012	Con
13. Japan (Southern KPR is deferred 5/8/3)	Most	19 April 2012	Con
14. France - Antilles/Kerguelen	Most	19 April 2012	Con
17. Philippines - Benham Rise	More	12 April 2012	Con

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## Summary of Recommendation

*Since 2008, the CLCS has made public summaries of its recommendations.*

- Summaries document evolving approaches and views of the CLCS on a number of the scientific, technical and legal provisions of article 76, and its application to a variety of continental margin settings and submarine features throughout the World’s oceans; sometimes beyond that in its Scientific and Technical Guidelines.
- Now being increasingly used by coastal States in the preparation and support of their submissions.
- The Summary is useful to maintain CLCS’s institutional memory and make recommendations consistent.

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## Legal advice

- interpretation of provisions of UNCLOS other than those contained within article 76, Annex II, and Statement of Understanding of the Final Act.  
(e.g Submission of Japan around Oki-no-Tori Shima Island)
- CLCS only deals with the issues concerning the application of article 76 and Annex II of the Convention, and Statement of Understanding, to carry out the functions that are explicitly assigned to it by the Convention itself.
- It has no mandate to make interpretations of other parts of the Convention. The Convention does not explicitly provide a mechanism for the CLCS to seek or obtain legal advice/input on substantive matters.
- CLCS decided not to pursue the issue “Mechanism to seek advice on matters of interpretation of certain provisions of the Convention” any further (CLCS/74/item16).

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## CONCLUSIONS

- The number of Submissions is still growing as coastal States recognize the practice of CLCS.
- The CLCS faces an issue of increasing workload. Consistent financial and other support for members of the CLCS, and properly resourced Secretariat are necessary to solve the issue.
- The approach of the CLCS is evolving to make it more transparent and consistent.
- CLCS only deals with the issues concerning the application of article 76 and Annex II of the Convention.
- CLCS should continue to follow the established procedure by maintaining its impartiality and independency.
- CLCS decided not to pursue the mechanism to seek legal advice on matters of interpretation of certain provisions of the convention.
- New members should make every effort to reach agreement on the issues presented above at the 30<sup>th</sup> Plenary Session.

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