

THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF
Its Establishment and Subsequent Practice *

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Thank you Chair for your introduction and good afternoon Your Excellencies, Distinguished Guests, and Ladies and Gentlemen. Can I begin by extending my thanks to the Ocean Policy Research Foundation and its Chairman, for the very kind invitation to be with you today to participate in this important International Seminar “The Thirtieth Anniversary of the UNCLOS from the perspective of the Commission on the Limits of the Continental Shelf as its Organ”. I look forward very much to our discussion this afternoon on this most important topic for the contemporary law of the sea. Can I also acknowledge the assistance that I received from Ms Yumiko Iuchi of the OPRF in arranging the logistics for my visit to Japan.

In my presentation to you this afternoon on “The Commission on the Limits of the Continental Shelf: Its Establishment and Subsequent Practices” I intend to address the following nine matters. During this presentation I will seek to provide some background on the continental shelf regime under the 1982 United Nations Convention on the Law of the Sea – which I shall refer to as the LOSC – and then address the role of the Commission on the Limits of the Continental Shelf – which I shall refer to as the CLCS – within that regime. I shall then outline what I have identified as four phases of the CLCS, before turning to some remarks on the practices of the Commission. In addressing these issues I have come to this topic as primarily an observer and not a participant who has been actively engaged in the work of the CLCS either as a member or as a delegate of the coastal state that has had a submission under consideration by the Commission.

I shall now turn to my substantive remarks.

1. The Law of the Sea Convention (LOSC) and the Continental Shelf

* This paper is based on a previous study into the Commission on the Limits of the Continental Shelf published as Donald R. Rothwell, “Issues and Strategies for Outer Continental Shelf Claims” (2008) 23 *International Journal of Marine and Coastal Law* 185-211.

The 1982 United Nations Convention on the Law of the Sea (LOSC) ¹ created a new framework for the conduct of maritime affairs. The Convention remains a shining example of international cooperation, diplomacy and the role of international law in the regulation of international affairs and is considered to be the product of one of the most complex and ultimately successful international diplomatic negotiations that took place in the Twentieth century.

One of the distinctive features of the LOSC, as opposed to the earlier 1958 Geneva Conventions, are the additions made to the ‘institutional architecture’ of the law of the sea. This is most evident in the case of the permanent institutions created to not only give effect to the Convention’s provisions, but also in an effort to assist in the resolution of disputes. In addition, there exist a number of ad hoc institutions and bodies which are created for specialized purposes, such as Annex VII Arbitral Tribunals, or other bodies such as the States Parties to the Law of the Sea who meet to review the implementation of the Convention. ²

With the 1994 entry into force of the LOSC the permanent institutions have gradually been established and they are now at a stage in their existence when they are beginning to have an impact on the Convention, its interpretation, and its implementation. One of these institutions is the CLCS. This is because of the dynamic nature of the continental shelf regime, and especially the outer limits of the continental shelf as provided for under Article 76 of the LOSC. Whilst the CLCS was created as a specialist body with a limited mandate, it has the potential to have a significant impact upon the dynamic of the law of the sea in coming decades as more coastal States seek to claim extended continental shelves.

The continental shelf regime in the LOSC comprises a mix of geographical and geological criteria but which ultimately provides for a juridical continental shelf – in other words a continental shelf that is a legal construct albeit based upon natural elements that make up a geographical or geological continental shelf.

¹ 1833 UNTS 396.

² For a discussion of the role of some of those institutions, see Alex G. Oude Elferink, “Reviewing the Implementation of the LOS Convention: the Role of the United Nations General Assembly and the Meeting of State Parties” in Alex G. Oude Elferink and Donald R. Rothwell (eds) *Oceans Management in the 21st Century: Institutional Frameworks and Responses* (2004) 295-312; Louise de la Fayette, “The Role of the United Nations in International Oceans Governance” in David Freestone et al (eds) *The law of the sea: progress and prospects* (2006).

The continental shelf according to Article 76 of the LOSC comprises the sea-bed and the subsoil of the submarine areas that extend beyond the territorial sea of a coastal state, throughout the natural prolongation of the land territory. Two outer limits exist for the continental shelf. The first is the outer edge of the continental margin. The second, where the continental margin does extend as far as this limit, is 200 nautical miles from the baselines from which the territorial sea is measured. A coastal state therefore will at a minimum enjoy an entitlement to a continental shelf of 200 nautical miles. Only where a coastal state’s continental shelf abuts up against an equivalent claim from a neighbouring coastal state will a state not enjoy a continental shelf of at least 200 nautical miles in breadth.

Some states are, however, entitled to claim a continental shelf that extends beyond 200 nautical miles consistent with Article 76 of the LOSC and this is where the CLCS plays an important role. In that regard, it should be noted that a coastal state has open to it three primary methods for proclaiming the outer limits of its continental shelf. The first is where it seeks to rely upon its basic entitlement of a 200 nautical mile claim. The second is where it seeks to rely upon an entitlement beyond 200 nautical miles which under Article 76 of the LOSC the coastal state is required to make a submission to the CLCS. The third is where because of the rights of neighbouring states, a coastal state has to limit its full entitlement to a continental shelf, and seek to enter into an arrangement with its neighbour for a settled maritime boundary between the two states.

2. The Commission on the Limits of the Continental Shelf (CLCS) and Article 76 and Annex II, LOSC

Article 76 of the LOSC defines the continental shelf and contains within it the juridical definition of the continental margin. The Article 76 formula – as it is sometimes known – is that which a coastal state must rely upon when seeking to make a CLCS submission. The role of the CLCS is noted in article 76(8) of the LOSC, where reference is made to the need for coastal States to submit information on their extended continental shelf claims to the Commission. Article 76 (8) goes on to provide:

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.

This rather brief provision therefore creates a quasi-judicial process.³ It is one in which coastal States seek to justify the extent of their continental shelf beyond the limits of 200 nautical miles by way of a submission to the CLCS which in turn makes recommendations to those coastal States. In this respect the use of the term ‘recommendations’ is significant as it suggests that whilst the coastal State is bound to submit to the CLCS data on the outer continental shelf,⁴ there is no compelling obligation on the part of the State to accept the views of the CLCS when finalising the outer limits of the outer continental shelf. This is countered, however, by the final sentence of Article 76 (8) which provides: “The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.”

Annex II of the LOSC provides details on the membership, function, role and procedures of the CLCS, and this has been supplemented by the Commission’s Rules of Procedure.⁵ The Commission has two functions:

1. To consider data submitted by coastal States in support of their claims to an extended continental shelf and make recommendations in accordance with the LOSC;
2. To provide scientific and technical advice, if requested by coastal States.⁶

The principal focus of its work is therefore the technical and where appropriate scientific interpretation of Article 76 dealing with the continental shelf beyond 200 nautical miles.⁷

³ McDorman characterizes the role of the CLCS as that of “legitimater”: T.L. McDorman “The Role of the Commission on the Limits of the Continental Shelf: A Technical Body in a Political World” (2002) 17 *International Journal of Marine and Coastal Law* 301 at 319.

⁴ LOSC, Art 76 (8) provides as follows: “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 Commission...”.

⁵ See “Rules of Procedure of the Commission on the Limits of the Continental Shelf” UN Doc. CLCS/40 (2 July 2004) (Rules of Procedure) which replaced the previous iteration of the Rule of Procedure contained in CLCS/3 (12 September 1997), which themselves underwent some refinement and modification up to CLCS/3/Rev.3/Corr. 1 (22 May 2001).

⁶ LOS Convention, Annex II, art 3.

⁷ On this point see discussion in G.P. Francalanci “Technical Problems for the Commission on the Limits of the Continental Shelf” in D. Vidas and W. Østreng (eds) *Order for the Oceans at the Turn of the Twentieth Century* (1999) 123-132. For analysis of some LOS Convention, art 76 issues see S.B. Kaye “The Outer

3. Establishment of the CLCS and Rules of Procedure

Following entry into force of the LOSC in 1994, an election of the first members of the CLCS took place in 1997. Since that time there have been 3 further elections for the full complement of 21 Commission members, the most recent taking place in June 2012 with the newly elected Commission members commencing their 5 year terms as from 16 June 2012.

The Commission’s 21 members are comprised of experts in the fields of geology, geophysics or hydrography elected by LOSC State parties along geographical lines of representation.⁸ It is clear that the Commission is not to be comprised of jurists or legal experts, which further reinforces the scientific nature of its work.

The Commission has established Rules of Procedure which govern its operations, conducted within the parameters of both Article 76 and Annex II of the LOSC. In that respect, one of the most important operational aspects of the Commission’s work is how it deals with coastal state submissions. The CLCS has established procedures whereby Sub-commissions are formed to review the submissions made by coastal states. The Sub-commission, which consists of seven members, engages in dialogue with the coastal state as the submission is reviewed. This process may take place over a number of meetings which could, depending on the complexity of the submission, take between 1-2 years. Eventually the Sub-commission will make its recommendations on the coastal state’s submission which then go before a meeting of the 21 member Commission for endorsement by a two thirds majority.

One issue of some note under the Commission’s Rules of Procedure relates to where there exists a dispute over either land or a maritime area. Rule 46 and Annex I of the Rules of Procedure deal with these disputes, in which the Commission makes clear that it will not consider submissions where a land or maritime boundary dispute exists.⁹ The Commission’s Rules of Procedure recognises the competence of states

Continental Shelf in the Antarctic” in A.G. Oude Elferink and D.R. Rothwell (eds) *The Law of the Sea and Polar Maritime Delimitation and Jurisdiction* (2001) 125-137; and A.G. Oude Elferink “The Outer Continental Shelf in the Arctic: The Application of Article 76 of the LOS Convention in a Regional Context”, *ibid* at 139-156.

⁸ LOS Convention, Annex II, art 2.

⁹ See Rules of Procedure, note 5, rule 45 and Annex I, Rule 5.

with respect to disputes arising from the establishment of the outer limits of the continental shelf. The Commission thereby implicitly has indicated that it does not seek to interfere with the right of a state to resolve its maritime boundaries with a neighbour consistent with the mechanisms found in Article 83 of the LOSC. Nevertheless, if there is an unresolved land or maritime dispute the Commission is to be informed of such a dispute by the coastal state making the submission. In the case of a land or maritime dispute, the Commission’s Rules of Procedure provide that it shall not consider an outer continental shelf claim with respect to the area in question unless all the states parties to the dispute give their consent. As we shall see from a review of practice before the CLCS, the issue of territory or maritime areas in dispute has proven contentious.

Finally, it can be noted with respect to CLCS procedures, that all coastal state submissions lodged with the United Nations Secretary-General are to be promptly notified to both the Commission and member States. This is a process which includes making public an executive summary of the submission.¹⁰ This transparency in the submission process is further reflected in the Commission’s agreed *modus operandi* whereby it is contemplated that other States may lodge a note verbale in response to an OCS submission. These notes can then become an element in the Commission’s considerations.¹¹

I now wish to turn to a consideration of what I have identified as the four phases of the Commission’s work.

4. Organizational Phase of the CLCS

What I have termed the Commission’s organizational phase ran from 1997 to 2001. During this phase the Commission predominantly focussed on procedural matters. No coastal state claims were made before the Commission during this period. In fact, pending the finalisation of the Commission’s rules of procedure and *modus operandi* it would have not been possible for the Commission to receive and consider a submission during this period. In addition to the finalization of its Rules of Procedure,

¹⁰ CLCS Rules of Procedure, note 5, Rule 50.

¹¹ CLCS Rules of Procedure, note 5, Annex III, para 2 (a)(v).

various Committees were formed to address a range of issues,¹² a *modus operandi* was finalized on the consideration of coastal State submissions, and related documents and technical papers were made available through the UN Division for Oceans Affairs and Law of the Sea.¹³

5. Primary Phase of the CLCS

The Commission’s primary phase commenced in 2001 when it was in receipt of its first submission from the Russian Federation. This was the time at which the Commission’s procedures were first tested, and when important working methods were adopted and the particular role of the Commission members in reviewing and making observations on submissions clarified. This phase extended up until 2004, during which time the CLCS received two further submissions lodged by Brazil and Australia. By the end of this phase the Commission had received submissions from three large coastal States, two of whom were asserting some of the largest outer continental shelf claims that will most probably ever come before the Commission in its lifetime, and it had also delivered its first set of recommendations in the case of Russia.¹⁴

The Russian submission was considered by the CLCS at its Tenth and Eleventh sessions in 2002 and recommendations were adopted and forwarded to the Russian Federation in June 2002.¹⁵ Russia’s submission dealt with claims over the Barents Sea, the Bering Sea, the Sea of Okhotsk, and the Central Arctic Ocean. In the case of the Barents and Bering Sea claims, the CLCS recommended that the Russian Federation transmit to the Commission charts and coordinates of the outer limits of the continental shelf following entry into force of maritime boundaries with Norway

¹² These include an Editorial Committee, a Standing Committee on the provision of scientific and technical advice, a Training Committee, and a Committee on Confidentiality.

¹³ The CLCS uses the Secretariat facilities of the UN Division for Oceans Affairs and Law of the Sea, and CLCS documentation is accordingly available through that Division’s portal at <www.un.org/Depts/los>.

¹⁴ See the summary of the CLCS recommendations made in the case of Russia at: Report of the Secretary-General, Oceans and the law of the sea (2002) UN Doc A/57/57/Add.1 [38-41].

¹⁵ Commission on the Limits of the Continental Shelf “Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission” (24-28 June 2002) UN Doc. CLCS/34, ¶33.

and the USA respectively.¹⁶ In the case of the Sea of Okhotsk, it was recommended that a “well-documented partial submission” be made by the Russian Federation for its extended continental shelf in the northern part of that sea, such a submission being without prejudice to questions arising over the delimitation of adjacent maritime boundaries between States in the south.¹⁷ Finally, it was recommended that a revised submission be made with respect to the Central Arctic Ocean based on the Commission’s findings in its recommendations.¹⁸

The significance of the Commission’s recommendations in this instance, were that they not only specifically referred to the interests of adjoining States – in this case Japan - but that they also recommended a revised submission. The effect of these two elements were that in the case of the disputed area with Japan in the North Pacific, Russia was encouraged to resolve the jurisdictional overlap, whilst in the case of the resubmission Russia was given a further opportunity of gathering together additional scientific data in order to further support its submission.

One further observation that can be made about this period is that it highlighted the capacity of other coastal states, including states not parties to the LOSC, to react to submissions made to the Commission by a note verbale. This was particularly highlighted by the reaction to the 2004 Australian submission which generated responses from eight states. Of interest was that in addition to states with which Australia shared a maritime boundary such as Timor Leste and France, coastal states such as India and the United States also lodged notes in response to the Australian submission. These responses though were directly related to observations being made by those states to Australia’s submission of data before the CLCS regarding a claimed outer continental shelf off the coast of the Australian Antarctic Territory. While Australia requested that the Commission not consider that data for the time being due to the constraints imposed upon Australia by the 1959 Antarctic Treaty, six other states – including Japan – also indicated to the CLCS their views on the legitimacy of any outer continental shelf offshore Antarctica.

¹⁶ United Nations Secretary-General “Oceans and Law of the Sea: Report of the Secretary General – Addendum” (A/57/57/Add.1 of 8 October 2002) ¶39.

¹⁷ Ibid, ¶40. To this end, the Commission recommended that the Russian Federation make “its best efforts” to reach agreement with Japan on a possible joint submission.

¹⁸ Ibid, ¶41.

6. Secondary Phase of the CLCS

What I am calling the secondary phase of the work of the CLCS commenced in 2005 and ends in 2009. This phase includes the period that was set as the ten year deadline for states who were parties to the LOSC at the time of its entry into force to make their submissions to the CLCS. During this period a total of 48 submissions were received by the Commission, including 29 submissions in the 5 weeks immediately prior to the 13 May 2009 deadline. Of importance for this audience is that the submission of Japan was made during this period on 12 November 2008.

The CLCS also began making recommendations with respect to previously received submissions – in the case of Australia and Brazil – and with respect to states that has made their submissions during this period. In total 8 recommendations were made by the Commission between 2005-2009 which in addition to Australia and Brazil included:

- Ireland
- New Zealand
- a joint submission made by France, Ireland, Spain and the United Kingdom
- Norway
- France – with respect to French Guiana and New Caledonia, and
- Mexico

What became apparent during this period was the length of time that the Commission was spending on assessing submissions and eventually making its recommendations. On average, of the 8 recommendations made during this period it took a little over 29 months or nearly 2.5 years between the date of submission and the date of the CLCS making its recommendation. However, the Commission did demonstrate that it could work at a faster pace and in the case of the Mexican submission, albeit only a partial submission with respect to the western polygon of the Gulf of Mexico, the Commission’s recommendations were made within 15 months.

7. Tertiary Phase of the CLCS

We now move to the current phase in the life of the CLCS – which I have called the Tertiary Phase – reflecting what I believe to be the position whereby the Commission has now established its procedures and is working through an enormous backlog of submissions. During this period, which runs through to activity as recent as 14 June 2012, the CLCS has received 10 additional submissions and made a further 9

recommendations. The length of time for the CLCS to make its recommendations during this period increased a little to 31 months, which is just over 2.5 years.

Therefore in total since the Commission entered its primary phase it has received a total of 61 submissions and made 18 recommendations. There are a total of 43 submissions which remain outstanding, of which 4 have been deferred for the time being and 2 are currently before a Sub-commission. This means that a total of 37 submissions remain to be considered by the Commission. Given that on average it is taking 2.5 years to consider each submission and that there exist limits on the number of submissions the Commission can consider at any one time. On one reckoning it could take the CLCS a total of 23 years for the current batch of submissions to be assessed and recommendations made.

Two other comments can be made about this phase of the work of the CLCS. The first is that states are now beginning to proclaim the outer limits of their continental shelf in reliance upon the recommendations made by the Commission. Australia's proclamation was made on 25 May 2012 and as can be seen from the map sought to encompass vast areas of seabed adjacent to the Australian coast. Of particular note is the outer continental shelf in the Southern Ocean off the coast of Tasmania, Macquarie Island, and Heard and McDonald Islands.

The other comment is that during the Tertiary period the Commission has for the first time begun to defer the consideration of some submissions on the grounds that they involve land or maritime areas that are in dispute. The submissions made by Bangladesh, Yemen, and separately the UK and Ireland in relation to the Hatton Rockall area fall into that category. These submissions are queued at present and it would appear that on the basis of current practice reconsideration will be given to their status on each occasion that the CLCS decides to allocate a Sub-commission to a submission. There is the potential, for example, that following the 14 March 2012 decision of the International Tribunal for the Law of the Sea in the Bay of Bengal cases between Bangladesh and Myanmar, that the submission by Myanmar may soon be able to proceed especially if the objections lodged by Bangladesh have now been resolved.

8. Practices of the CLCS

On the basis of this review, I now wish to make a few observations regarding the practices of the Commission. The first is that consistent with its Rules of Procedure, the CLCS has allowed states to make partial submissions with respect to one part of the maritime domain that may be subject to an outer continental shelf claim. This type of approach has taken a number of forms. For example, Mexico has made two claims before the Commission. One in 2007 with respect to the western polygon in the Gulf of Mexico and the other in 2011 with respect to the eastern polygon. France has been involved in 5 separate submissions. The first was made in conjunction with Spain, Ireland and the UK over the Celtic Sea and Bay of Biscay off continental France, while all of the others have been claims with respect to French Overseas Territories including in 2009 a joint submission with South Africa regarding Southern Ocean possessions.

Consistent with its Rules of Procedure, the CLCS via the Secretary-General has also received multiple responses from third party states to submissions before the Commission. Only 15 of the total 61 submissions, or 25 per cent, have not to date been the subject of a response by other states. In that respect, it can be observed that the United States, notwithstanding it is not a party to the LOSC has responded to a number of submissions. In some instances, states have lodged multiple responses to a submission, as occurred with the multiple responses of the PRC and South Korea to Japan’s submission. There have even been instances where a form of dialogue has occurred between the coastal state and the responding state over submissions via these diplomatic communications. The partial claim over the South China Sea by Malaysia and Vietnam has generated responses from the PRC, Philippines and Indonesia to which both Malaysia and Vietnam also lodged diplomatic responses.

These matters highlight the sensitivity associated with respect to certain submissions that raise issues regarding land and maritime disputes. While given the essentially non-legal and depoliticized character of the Commission’s mandate its approach towards disputed claims is justifiable, however it has the potential if not handled with caution to raise political tensions in other areas of the law of the sea and within other fora.¹⁹

¹⁹ One of the difficult issues which arises here is whether there exists a “dispute”; Merrills defines a dispute as being “a specific disagreement concerning a matter of fact, law or policy in which a claim or assertion of one party is met with refusal, counter-claim or denial by another”: J.G Merrills, *International Dispute Settlement*

The Commission has also displayed a certain flexibility in its operations and has been prepared to permit modification and adjustments to submissions that have been made. In some cases these have been relatively minor, while in others they have been more significant. Barbados, for example made its original submission in May 2008 followed by a revised submission in July 2011. Not only are these processes important for the coastal state and ultimately the CLCS, but also for other interested states who rely upon the published Executive Summary and related documentation to determine whether their interests have been impacted.

The CLCS has also developed procedures whereby there is an active exchange of views between the coastal state and the Sub-commission reviewing its submission. One of the first formal acts of a Sub-commission is to receive a formal presentation from the coastal state, but this may not be just a one off as there is scope for subsequent interactions to take place which go to clarifying aspects of a submission.

Finally there is also a dynamic that takes place between the 7 member Sub-commission and the 21 member Commission. It must be recalled that a formal Recommendation from the CLCS will only be endorsed by a two thirds majority vote of the full Commission and there have been instances when the Commission has refused to endorse a draft recommendation received from a Sub-commission.

9. Concluding Remarks

The CLCS is becoming one of the modern institutional phenomena of international law and particularly the law of the sea. Its organizational phase attracted little analysis, however as it has moved through its primary, secondary and has now reached its tertiary phase and is issuing Recommendations to coastal states with some regularity. The importance of the work of the Commission is becoming better understood and appreciated.

The Commission is also being drawn into legal areas of controversy. This is highlighted by the United Kingdom response to the Commission’s Recommendations with respect to Ascension Island in which the UK has indicated that it is “disappointed”

(2011, 5th) 1; see also discussion in *Case Concerning East Timor* (Portugal v. Australia) [1995] ICJ Reports 90 as to whether there existed a ‘dispute’ for the purposes of Article 36 (2) of the Statute of the International Court of Justice.

with the final Recommendations issued by the CLCS that the UK ought not to establish a continental shelf beyond 200 nautical miles. No doubt in response to this incident, in 2011 the CLCS gave active consideration to seeking legal advice from the Legal Counsel of the United Nations on a question relating to the interpretation of Article 76 and Annex II. Most recently in April 2012 the Commission indicated that it would not seek legal advice on this matter. Accordingly, some of these issues of legal interpretation of the LOSC remain unresolved.

Controversies with respect to the polar oceans also highlight this dimension. Russia’s 2007 ‘planting of the flag’ on the North Pole seabed highlighted how politically contentious outer continental shelf claims will be in the Arctic.²⁰ Dormant controversies over Arctic territories such as Svalbard have also been revived.²¹

In the Southern Ocean, outer continental shelf claims have raised sensitivities under the Antarctic Treaty, and also with respect to the potential for the International Seabed Authority to ultimately have rights of access over the ‘Area’ which remains unclaimed. Argentina and the United Kingdom have also presented conflicting views to the Commission on the status of the Falkland Islands

The CLCS is therefore on the brink of rapidly becoming centre stage of a number of OCS claims which if they have not already done so, will raise issues of great legal and political sensitivity let alone scientific complexity. As coastal States do not have a unilateral right to proclaim an outer continental shelf and consistent with Article 76 states can only claim such an area by reference to the recommendations of the Commission, it is clear that CLCS recommendations will have influence on the delimitation of maritime space which in certain cases will inevitably be contentious. As Commission recommendations and subsequent coastal State declarations of an outer continental shelf will effectively determine over time what part of the seabed constitutes the Area, with ramifications for the application of the common heritage

²⁰ See Colin Woodard “Who resolves Arctic oil disputes?” *The Christian Science Monitor* August 20, 2007 at <www.csmonitor.com/2007/0820/p01s02-woeu.html>; and Rosemary Rayfuse “Melting Moments: The Future of Polar Oceans Governance in a Warming Worlds” (2007) 16 *RECIEL* 196 at 207.

²¹ See Torbjorn Pedersen, “The Svalbard Continental Shelf Controversy: Legal Disputes and Political Rivalries” (2006) 37 *Ocean Development and International Law* 339-358.

regime, the international community will no doubt closely monitor its work for many years to come.²²

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On this point see comments by then UN Under-Secretary for Legal Affairs and Legal Counsel, Hans Corell, when during an address to the CLCS in 2002 he noted that its work “was to be carried out in the strictest confidentiality and with the utmost integrity” and that he firmly believed “that the results of the examination of the submission would stand the test of global scrutiny”: Commission on the Limits of the Continental Shelf “Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission” (25 March – 12 April 2002) UN Doc. CLCS/32, par 6; note also McDorman’s view of the CLCS as a “technical body in a political world”, McDorman, note 3.