

**Functions of DOALOS as the Secretariat of CLCS and its role in
implementing UNCLOS**

**Presentation by Mr. Václav Mikulka, Director, Division for Ocean
Affairs and the Law of the Sea, Office of Legal Affairs, United Nations,
at the Ocean Policy Research Foundation Seminar in Tokyo, Japan,
27 February 2008**

Mr. Chairman,

Ladies and Gentleman

I wish to thank the Ocean Policy Research Foundation for inviting me to participate in this Seminar and for your wonderful hospitality in this beautiful city of Tokyo. I also wish to thank the Nippon Foundation for their generous patronage of this event and many other ocean affairs related activities. I cannot miss the opportunity to also thank the Japan Agency for Marine-Earth Science and Technology (JAMSTEC) for the tour and excellent programme they have organized for the participants of this Seminar, which has been a great learning experience.

The subject of my presentation is “Functions of DOALOS as the Secretariat of the CLCS and its role in implementing UNCLOS”. The Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs (DOALOS) has responsibility for the discharge of the functions in the field of oceans and the law of the sea entrusted to the Secretary-General of the United Nations under the 1982 United Nations Convention on the Law of the Sea (Convention). Through the Division the United Nations provides legal services as well as substantive secretariat functions in the implementation and application of the Convention and related Agreements.

One of the core functions of the Division is to serve as the Secretariat of the Commission on the Limits of the Continental Shelf (“the Commission” or CLCS)¹. In my presentation, I will first focus on this function of DOALOS. Thereafter I will briefly take you through its other functions.

The Commission facilitates the implementation of the Convention by making recommendations to coastal States on matters related to the establishment of the outer limits of the continental shelf beyond 200 nautical miles. Its recommendations are based on an examination of complex scientific and technical data and information included by States in their submissions to the Commission.

There are three major aspects of DOALOS functions as Secretariat of CLCS, which can be broadly identified as:

- receiving submissions from coastal States and giving publicity to their executive summaries;
- organizing and servicing the meetings of the Commission and its Subcommissions; and
- facilitating the consideration of submissions by the Commission and its Subcommissions.

A. Receiving submissions

¹ Annex II to the Convention provides that the Secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

In accordance with the provisions of the Convention, the submission shall be addressed to the Secretary-General of the United Nations. To date 9 submissions have been received, namely, that of the Russian Federation in 2001, Brazil and Australia in 2004, Ireland in 2005, New Zealand; a joint submission by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland; and Norway in 2006, France and Mexico in 2007.

Immediately upon receiving the submission, the Secretariat verifies, in accordance with the rules of procedure of the Commission, whether the submission contains all three parts, namely:

- the executive summary;
- the main body of analytical and descriptive nature; and
- the supporting scientific and technical data.

The Secretariat also verifies the integrity and consistency of the documentation. Any discrepancies, as the case may be, are brought to the attention of the Chairman and upon his request the State is informed of the findings so that it can rectify them.

The submitting State is required to provide 22 copies of the executive summary, 8 copies of the main body and 2 copies of the supporting scientific and technical data. As provided in Annex III of the rules of procedure, these are in hard copies. (One copy always remains in DOALOS custody.)

If the coastal State chooses to make a submission in electronic form as well, such electronic submission should be done in a secure, unalterable format. The State should also certify that the electronic form is a true and complete version of the hard copy of the submission. In the case of discrepancies between the electronic and hard copy, the hard copy is deemed to be the primary source.

The submission as well as its annexes and attachments should be made in one of the official languages of the Commission which are Arabic, Chinese, English, French, Russian and Spanish. However, if the submission is made in an official language other than English, the Secretariat will arrange for its translation into English.

The receipt of the submission and its attachments and annexes is promptly acknowledged by the Secretary-General through DOALOS to the submitting State. Thereafter, the Secretariat promptly notifies the Commission, and also all Member States of the United Nations, including States Parties to the Convention of the receipt of the submission. The executive summary including all charts and coordinates contained in it is made public through the website of the Commission, which is maintained by the Division.

While the communications between the Division and the submitting State are done in the standard form used in the UN practice, in the interest of faster communication between the Division and the members of the Commission a secure electronic means of communication has been established.

In consultation with the Chairman of the Commission the Secretariat prepares the provisional agenda of each session of the Commission. If the session of the Commission following the submission is no earlier than three months after the date of publication of the executive summary including all charts and coordinates, the consideration of the submission is included on the agenda of that session.

No later than 60 days before the meeting, the Commission will notify the submitting State of the date and place of the meeting with invitation to send its representatives. The notification is through the Secretariat.

B. Organizing and servicing the meetings

The Commission operates either as a plenary or by means of subcommissions. DOALOS makes the arrangements for all meetings of the Commission and its subcommissions. It also designates the Secretary and the Deputy Secretary for the Commission as well as a Secretary for each of the Subcommissions, provides GIS laboratories, other facilities, and makes all necessary arrangements for the meeting of the Commission or, as the case may be, the Subcommission, with the representatives and technical experts of the submitting State.

In planning the meetings the Secretariat aims to reconcile the needs of the Commission in terms of total duration of meetings as well as their dates. The current workload of the Commission, stages of consideration of various submissions, and sometimes also the availability of the members of the

Commission have to be taken into account. The dates of the sessions, once approved by the General Assembly in its resolution, are included in the UN calendar of meetings and conferences.

The formal meetings of the Commission are with simultaneous interpretation in all six official languages of the United Nations. The working language during informal meetings of the Commission and the meetings of the subcommissions is English. In 2008, there will be an increase in the duration of the Commission's sessions to a total of 12 weeks, as a first step towards managing the increased workload of the Commission. In addition there may be inter-sessional meetings of subcommissions.

In view of the scientific and technical mandate of the Commission, assisting its meeting encompasses more than standard secretariat functions such as organizing and servicing of meetings, preparation of documents, reports etc.

The consideration of a new submission is always introduced by a formal presentation in the plenary meeting of the Commission by the delegation of the submitting State. The notification of the composition of the delegation is received by the Secretariat in due time prior to such meeting and transmitted to the Chairman of the Commission.

The presentation includes:

- Charts indicating the proposed limits;
- The criteria of article 76 which were applied;

- The names of members of the Commission who assisted the coastal State by providing scientific and technical advice with respect to delineation;
- Information regarding any dispute related to the submission;
- Comments on any note verbale from other States regarding the data reflected in the executive summary including all charts and coordinates made public.

The presentation is followed by a question and answer session involving the members of the Commission and the representatives of the coastal State. As the meetings of the Commission are closed, other States or the public are not admitted to such meetings. The Secretariat is represented by the Director of the Division, the Secretary of the Commission and his Deputy, the Secretary of the future subcommission, GIS officers and other staff of the Division servicing the meeting.

In accordance with Article 5, Annex II of the Convention, unless otherwise decided, the Commission functions by way of subcommissions composed of seven members appointed in a balanced manner which takes into account the specific elements of each submission. In practice, in dealing with the eight submissions it has had under consideration to-date, the Commission has always functioned by way of subcommissions.

The examination of the submission by the subcommission is divided into “Initial examination” and “main scientific and technical examination”.

In order to facilitate the initial examination of the submission by a subcommission the Secretariat does the preparatory work on each new submission. Timeliness of this action is important, taking into account that the Subcommission will begin its initial examination immediately upon its establishment, and that the initial examination has to be completed within one week.

The Subcommission first verifies the format and completeness of the submission in accordance with the requirements and whether there are any disputes concerning the area covered in the submission. If need be, it may request the submitting State to correct/and or provide additional information.

The preliminary examination determines:

- whether the test of appurtenance is satisfied; (2.2.8 Guidelines);
- which criteria under article 76 have been applied;
- whether segments of the outer limit of the extended continental shelf are not longer than 60 nautical miles;
- whether, considering the nature of the submission, an advice of a specialist or the collaboration of an international organization is required;
- whether any matter requires clarification from the submitting State (clarifications and answers are in written form through the Secretariat); and
- whether there are any disputes in the region.

Following this preliminary phase, the Subcommittee reports its findings to the Commission indicating the estimated time required to review all data and to prepare its recommendations to the Commission.

The main scientific and technical examination of the submission is a detailed process of evaluation of the scientific and technical information submitted by the submitting State, verification of the outer limits as proposed and several other related aspects. This examination is carried out in the meetings of the Subcommittee as well as during the inter-sessional period. DOALOS provides technical facilities and support for such examination. It also constantly maintains communication with the Subcommittee and the submitting State. There is also a dedicated secure website for continuous interaction and discussions amongst the members of the Subcommittee. Interactions between the subcommittee and the submitting State during the inter-sessional period are conducted by correspondence through the Secretariat.

The Chairman of the Subcommittee presents the draft recommendations to the plenary of the Commission. The presentation by the Chairman is followed by a question and answer session, during which the Chairman and members of the Subcommittee provide clarifications on different aspects of the recommendations.

Thereafter, in accordance with rule 53 of the rules of procedure of the Commission, the Commission considers and approves or amends the recommendations. Every effort is made to reach a decision by consensus,

failing which the decision is taken by a two-thirds majority of the members present and voting.

C. Facilitating the consideration of the submissions

The Secretariat provides technical assistance to the subcommissions while considering submissions both during the sessions of the Commission (as much as three subcommissions may be in session simultaneously) as well as during the period between sessions, when the members of the Commission continue to evaluate the submissions away from Headquarters.

DOALOS facilities include:

- Conference room with adequate audio and visualization equipment;
- Three GIS laboratories;
- Suite of offices for the Chairman of the Commission and the chairmen of subcommissions during the session;
- Highly-secured room for the storage of submissions in accordance with the security-requirements provided for in the rules of procedure of the Commission; and
- Printing room with a large-format scanner and plotter, a medium-format plotter and laser monochrome printer.

During the technical examination of submissions in the Geographic Information System (GIS) laboratories the Division also provides to the Commission various GIS services. Typically, such services include:

- Compilation of data contained in the submission into a consistent GIS format;
- Calculation of geodetic distances, using a number of different methods;
- Facilitating the analysis of the data in two dimensions;
- Facilitating the analysis of the data in three dimensions;
- Research for additional scientific or bathymetric information and its incorporation into the consistent GIS format.

To be able to process a considerable amount of data submitted by States in a growing number of increasingly more complex submissions and in order to ensure that the Secretariat is in a position to fulfil the requests from the subcommissions concerning the performance of GIS tasks, all GIS laboratories at DOALOS are equipped with adequately powerful computers. Moreover, in order to facilitate the work which is expected to be done by individual members during the period between the sessions in their respective States, the Commission agreed that the full content of all the submissions should be made available to all the members of the Commission at all times. Consequently, a large amount of digital information is being made available to the members of the Commission, by the Secretariat on a continuous basis, by means of FTP and the “quick place”.

The amount of work that needs to be done during the period between the sessions by the members of the Commission has increased and will

continue to increase significantly as the number of submissions before the Commission grows.

With the approaching deadline of 12 May 2009 for a number of States, many new submissions to the Commission are expected. In anticipation of such an expected increase, the subject of the increasing workload has been brought each year since 2004 to the attention of the Meeting of States Parties. In June 2007, the seventeenth Meeting of States Parties acknowledged the anticipated workload of the Commission owing to an increasing number of submissions, placing additional demands on its members and on the Secretariat and requested coastal States Parties to submit to the Secretariat, for work planning purposes, by the end of November 2007, information on whether they intend to make a submission to the Commission and by which date. The information received pursuant to that decision indicates that about 30 additional submissions are likely to be received by May 2009.

The workload of the Commission in the coming years and the need to adequately equip the Secretariat with all necessary facilities to allow the expeditious and efficient examination of the submissions were also addressed during the sixty-second session of the General Assembly.

In order to enable the uninterrupted consideration of submissions both between and during sessions, the Commission identified certain software packages that should be provided by the Secretariat. Following the adoption of the General Assembly resolution 62/215 on Oceans and the Law of the Sea of 22 December 2007 which secured the provision of additional funds, the Secretariat has already undertaken immediate steps aimed at providing the

Commission with the required additional facilities and tools. The Division already ordered the purchase of several software packages, namely ESRI ArcGIS, Caris LotS, GeoCap, GeoSoft, Marzone, Surfer, ERDAS Imagine and Fledermaus Pro, which were earlier identified by the Commission which should be available to the Commission at the beginning of its next session in March.

I now wish to briefly give an overview of the other functions and activities of DOALOS and of its role in implementing the provisions of the Convention and related instruments. From this broader perspective, the main functions of the Division include:

- Providing information, advice, assistance and conducting research and preparing studies;
- Substantive servicing of meetings ;
- Discharging the responsibilities of the Secretary-General under UNCLOS, related agreements and resolutions;
- Providing support to the organizations of the United Nations system;
- Capacity building: trainings, fellowships and technical assistance; and
- Monitoring and research activities and maintaining a comprehensive information system and research library.

1. Providing information, advice, assistance and conducting research and preparing studies

DOALOS has a central role in providing information, advice, assistance and conducting research and preparing studies, relating to major Law of the sea instruments, namely

- United Nations Convention on the Law of the Sea (UNCLOS);
- Agreement relating to the implementation of Part XI of UNCLOS; and
- Agreement for the implementation of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement).

Such assistance is provided with a view to promoting a better understanding of these instruments, their wider acceptance, uniform and consistent application and effective implementation.

2. Substantive servicing of the Meetings

In addition to its support to the CLCS, DOALOS provides assistance and substantive servicing to various meetings:

- Meetings of States Parties of UNCLOS;
- United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea;
- Informal consultations of States Parties to the Agreement for the implementation of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement);

- Informal consultations concerning the annual resolutions on Oceans and the law of the sea and fisheries; and
- Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.

3. Discharging the responsibilities of the Secretary-General under the UNCLOS, related agreements and relevant resolutions of the General Assembly

These functions include:

- Depository and due publicity functions (charts and geographical coordinates);
- Coordination and liaison functions; and
- Administration of trust funds.

a) Depository and due publicity functions

DOALOS functions as the depository of charts and geographical coordinates concerning maritime zones, including lines of delimitation and it gives due publicity thereto. The Division also maintains a database comprising texts of national legislation on maritime zones and treaties dealing with the delimitation of maritime boundaries.

b) Coordination and liaison functions

The Division has a close cooperative relationship with the International Seabed Authority, and the International Tribunal for the Law of the Sea, the two other institutions established under the Convention. This cooperation is based on relationship agreements concluded between the United Nations and these two institutions. The Division is represented in the annual sessions of the International Seabed Authority and closely interacts with the Authority on scientific and technical matters concerning seabed resources. Joint publications useful to Member States have been brought out.

The Division also serves as the liaison office for the Tribunal at United Nations Headquarters in New York, publishes summaries of the Tribunals' cases in the reports of the Secretary-General on oceans and the law of the sea, and has recently finalized a publication in collaboration with the International Court of Justice and the Tribunal entitled "Digest of International Cases on the Law of the Sea".

c) Administration of Trust Funds

DOALOS is also responsible for the administration of numerous trust funds, namely:

- Trust fund to assist members of the CLCS from developing States to participate in the meetings;
- Trust fund to facilitate the preparation of submissions to the CLCS for developing States, in particular the least developed countries and small island developing States;

- Voluntary trust fund to assist developing countries in attending meetings of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea;
- Trust fund to assist States in their settlement of disputes through ITLOS;
- Trust fund for assistance to States participating in the Conference on Maritime Delimitation in the Caribbean; and
- Assistance fund under Part VII of the UN Fish Stocks Agreement.

4. Providing support to the organizations of the United Nations system.

Another important function of DOALOS consists in providing support to the organizations of the United Nations system such as IMO, FAO, IOC UNESCO, UNEP, CBD, etc. in the fulfilment of their respective mandates relating to various law of the sea issues, with a view to ensuring uniform implementation and application of the Convention and related instruments.

5. Capacity building: trainings, fellowships and technical assistance

The notion of capacity building, in the case of DOALOS, encompasses several fellowship and training programmes, Train-Sea-Coast Programme (TSC), as well as DOALOS/UNITAR briefings.

Concerning the fellowship and training programmes: the Hamilton Shirley Amerasinghe Memorial Fellowship is now in operation for 23 years. Twenty-six candidates have received the fellowship.

Under the United Nations - Nippon Foundation fellowship programme 40 fellowships have been awarded to nationals from some 35 States, over three years. Agreements have been concluded with some 30 of the world's most recognized institutions in various areas of ocean affairs and the law of the sea. The research outputs are available online.

Concerning training programme and training manual on delineation of the outer limits of the continental shelf, it is worth noting that 7 training courses have been organized since 2005 around the world. All developing States with a potential for extended continental shelves have sent staff to be trained at these courses.

I also wish to mention the Train-Sea-Coast Programme (TSC), which is administered by the Division and funded by the Global Environment Facility (GEF) through the United Nations Development Programme (UNDP) project GLO/98/G35.

Finally, there are annual DOALOS/UNITAR briefings for delegations which focus on both overviews and key developments with regard to contemporary issues with a view to facilitating negotiations on the draft General Assembly resolutions related to the item "Oceans and the law of the sea".

6. Monitoring and research activities and maintaining a comprehensive information system and research library

The Division maintains a modern user friendly website which serves as an important tool for the dissemination of information. It also maintains the Law of the Sea Library, which was established during the Third United Nations Conference on the Law of the Sea. The library is a specialized reference collection. While independent from the United Nations Dag Hammarskjöld and Legal Libraries, it functions in cooperation with them. The Law of the Sea Library contains books, journals, documentation and electronic resources dealing with the law of the sea, as well as the United Nations and international law in general. Its extensive holdings related to the law of the sea, many of which are not found elsewhere, are available for consultation by DOALOS and UN staff members as well as students, lawyers, delegates and other members of the international community interested in the law of the sea and ocean affairs. DOALOS also regularly contributes to Aquatic Sciences and Fisheries Abstracts (ASFA) and is providing access to this database.
