

# **THIRD-PARTY REACTIONS TO CONTINENTAL SHELF SUBMISSIONS, AND THEIR TREATMENT BY THE CLCS**

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# **DISCLAIMER**

Views and findings presented here are the author's own and do not represent the opinions of any government or organization.

Similarly, errors of fact or interpretation are the author's own.

# PRIOR CLARIFICATIONS

- The information presented here is mostly drawn from the website of DOALOS (UN Division of Ocean Affairs and Law of the Sea).
- The overall Article 76 process is still in its early stages: this presentation reflects the situation on April 1, 2010 and does not include developments arising during the most recent meeting of the CLCS.

# **RULE 46, CLCS RULES OF PROCEDURE:**

*Defining the nature of a dispute for Article 76 purposes*

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.

# PARAGRAPH 1, ANNEX I, CLCS RULES OF PROCEDURE

*Resolution Of Disputes*

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.**

# DEFINED SCOPE OF THIRD-PARTY REACTIONS

## *Declaration by CLCS*

Extracted from Paragraph 17 of CLCS/42, Statement by the Chairman of the CLCS on the progress of work in the Commission, 14 Sept, 2004:

*...the Commission noted that both annex II to the Convention and the rules of procedure of the Commission provided for only one role to be played by other States in regard to the consideration of the data and other material submitted by coastal States concerning the outer limits of the continental shelf beyond 200 nautical miles.*

***Only in the case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes would the Commission be required to consider communications from States other than the submitting one...***

# OBSTACLES TO ACCESSING INFORMATION CONCERNING THE OPERATIONS OF THE CLCS

- Fragmented documentation
  - Executive Summaries of submissions posted separately
  - Reactions and rebuttals lodged by individual states
  - Meeting reports filed by CLCS Chairman
  - Reports delivered to General Assembly
- CLCS Rules of Confidentiality
  - Continental shelf submissions and supporting data are restricted
  - CLCS meetings are closed and discussions are not reported
  - Recommendations are released publicly only in summary form

# EXTREME NON-DISCLOSURE: THE CANADIAN MODEL



Government releases 6,200 heavily redacted pages a day after Justice Minister argued Parliament has no authority to demand unfettered access to sensitive files

# ELEMENTAL DISCLOSURE: THE VATICAN MODEL

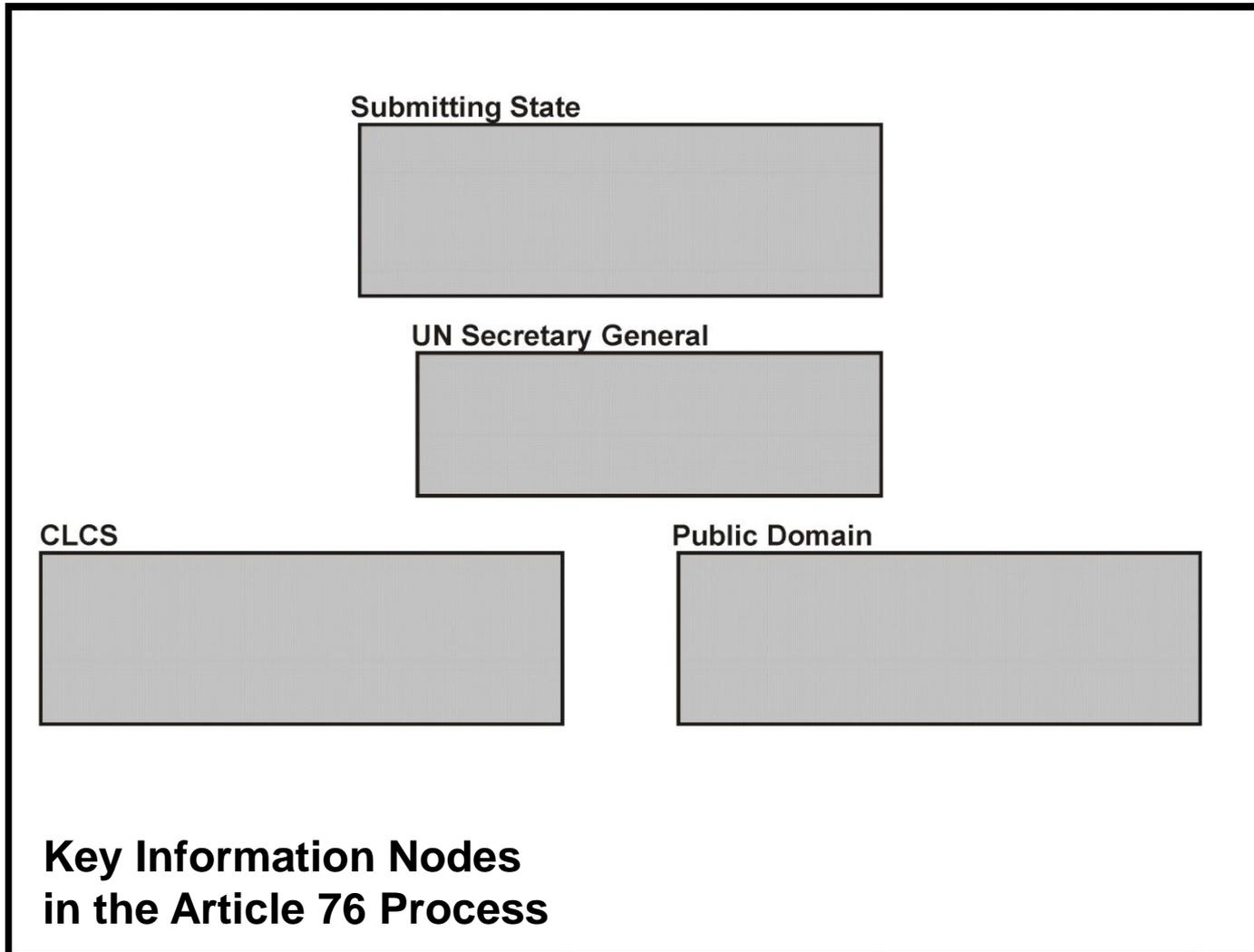


*Agence France Presse*

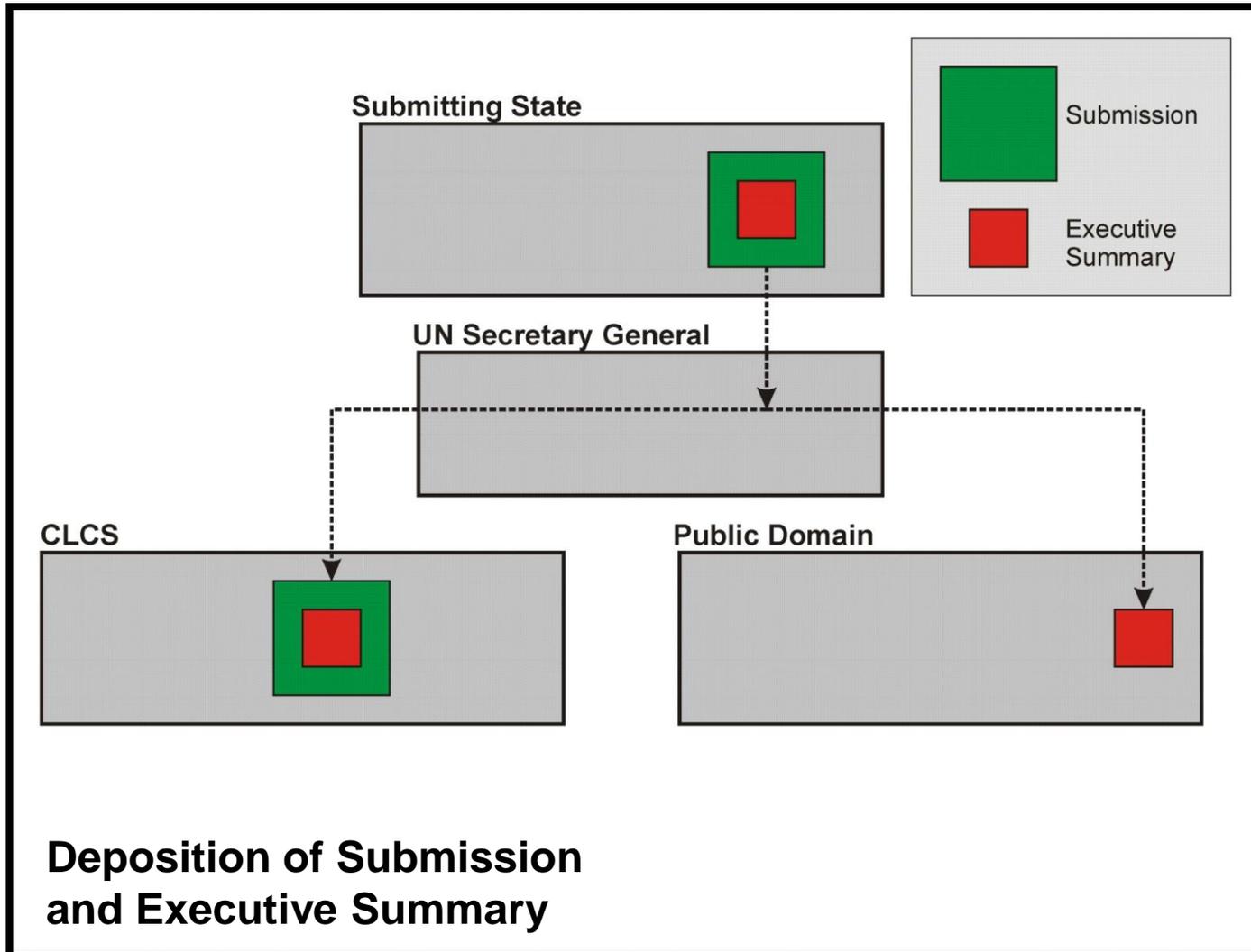


*Associated Press*

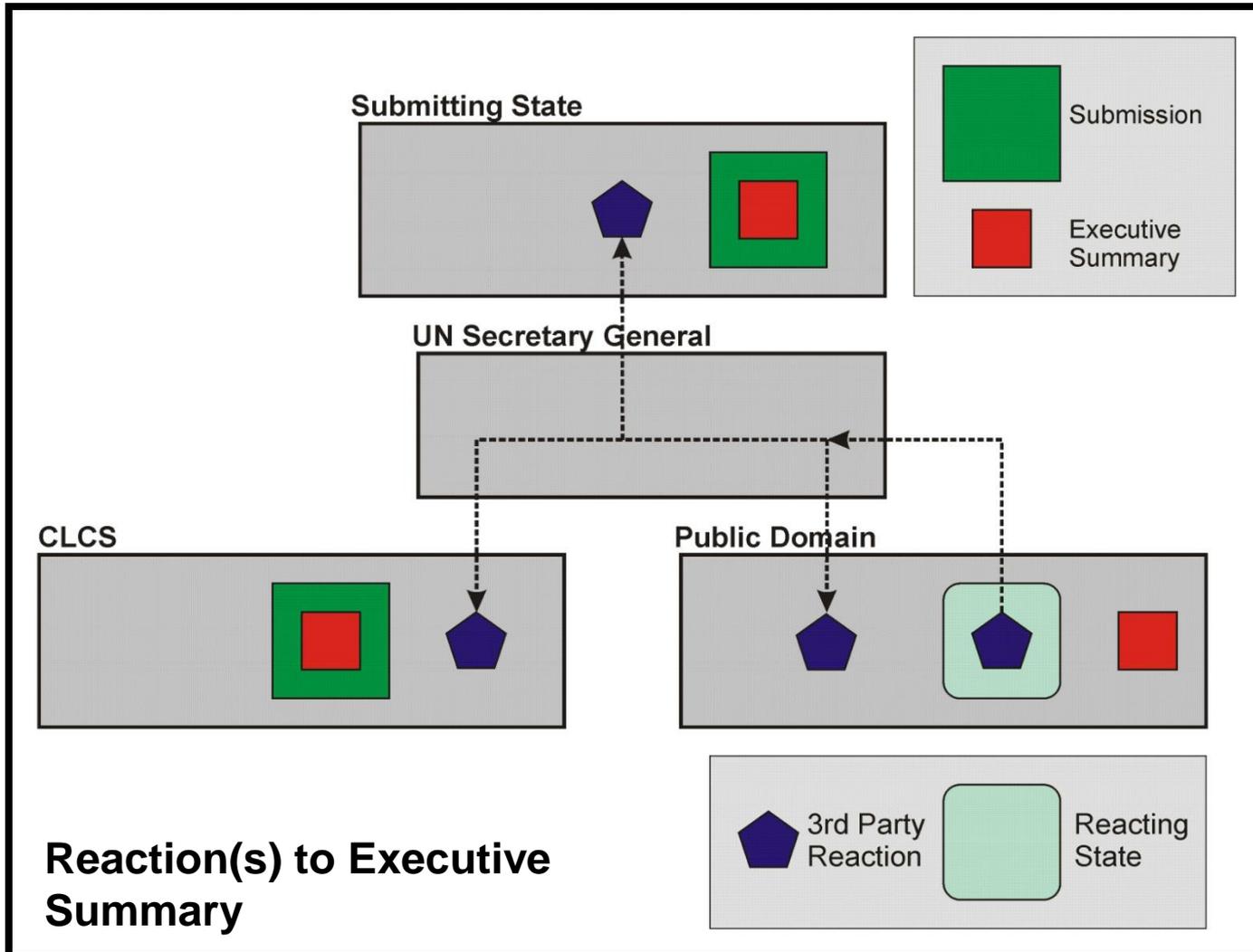
# SELECTIVE DISCLOSURE: THE CLCS MODEL



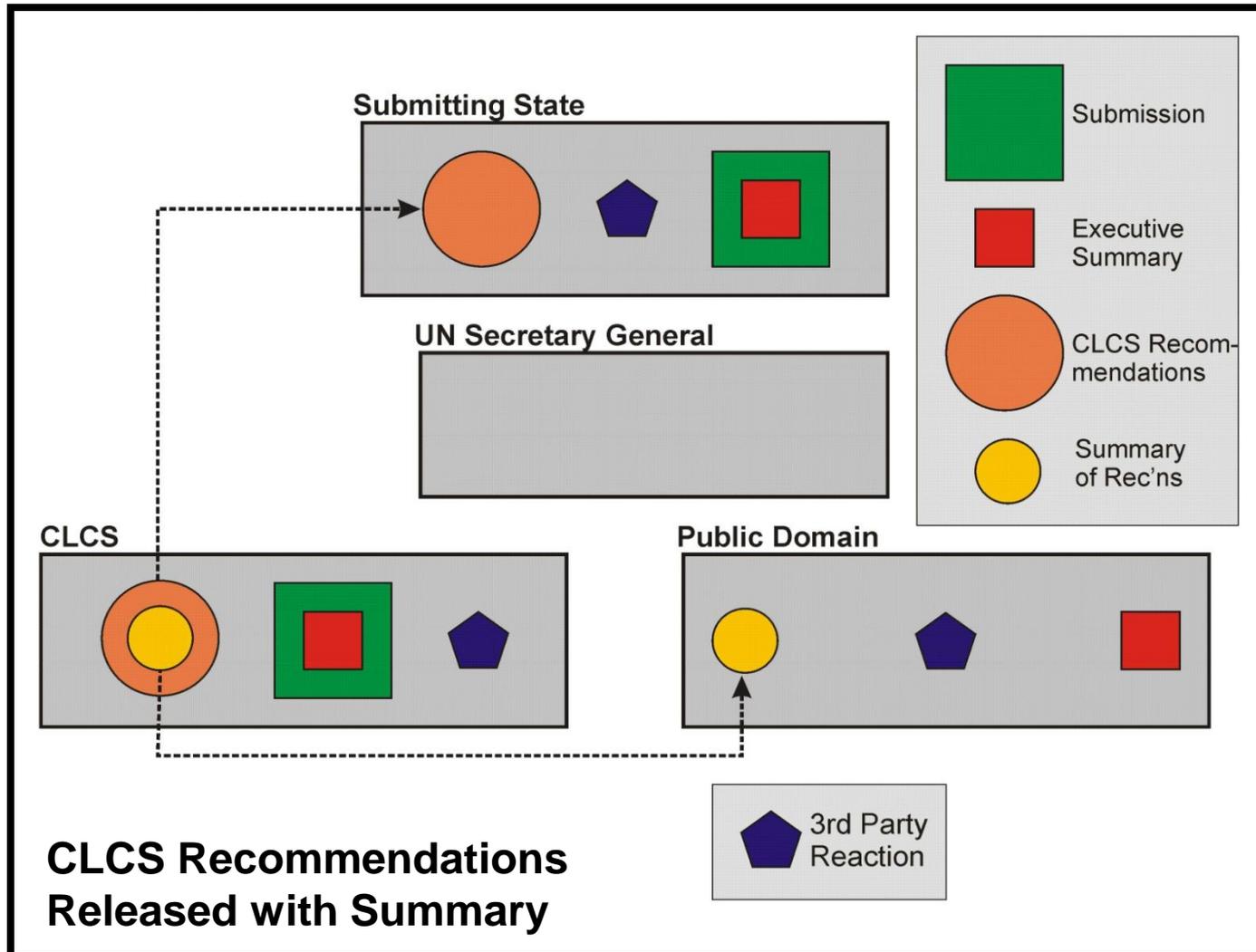
# SELECTIVE DISCLOSURE: THE CLCS MODEL



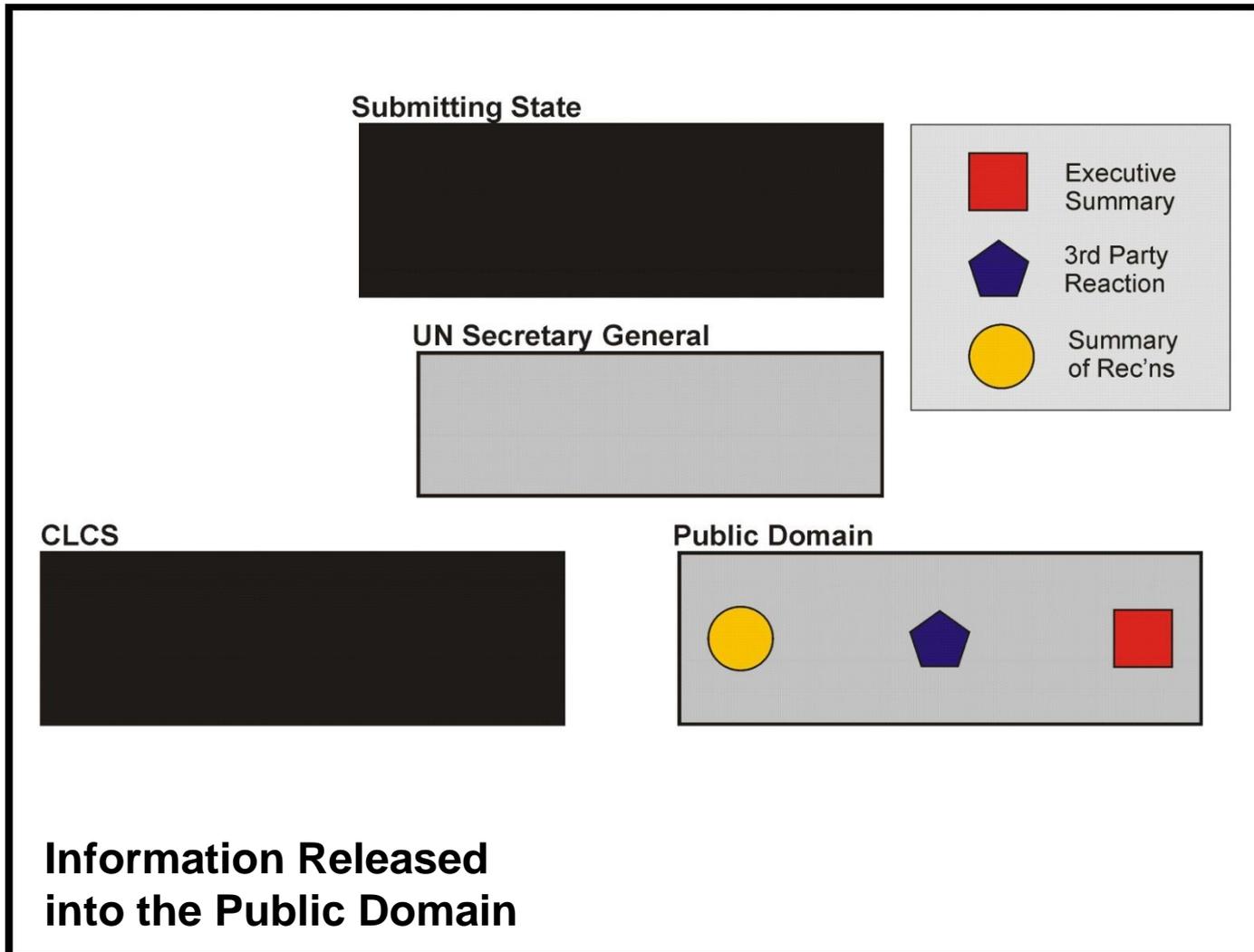
# SELECTIVE DISCLOSURE: THE CLCS MODEL



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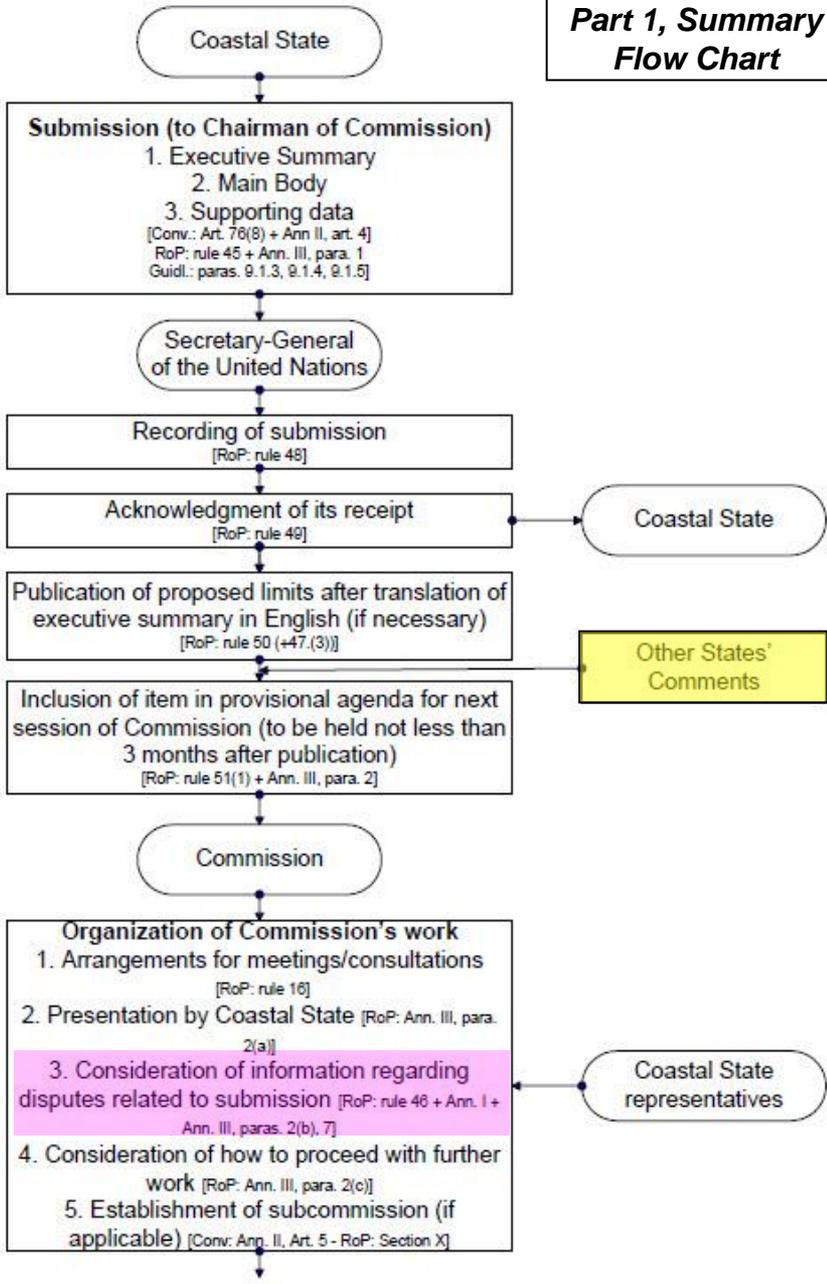


# SELECTIVE DISCLOSURE: THE CLCS MODEL

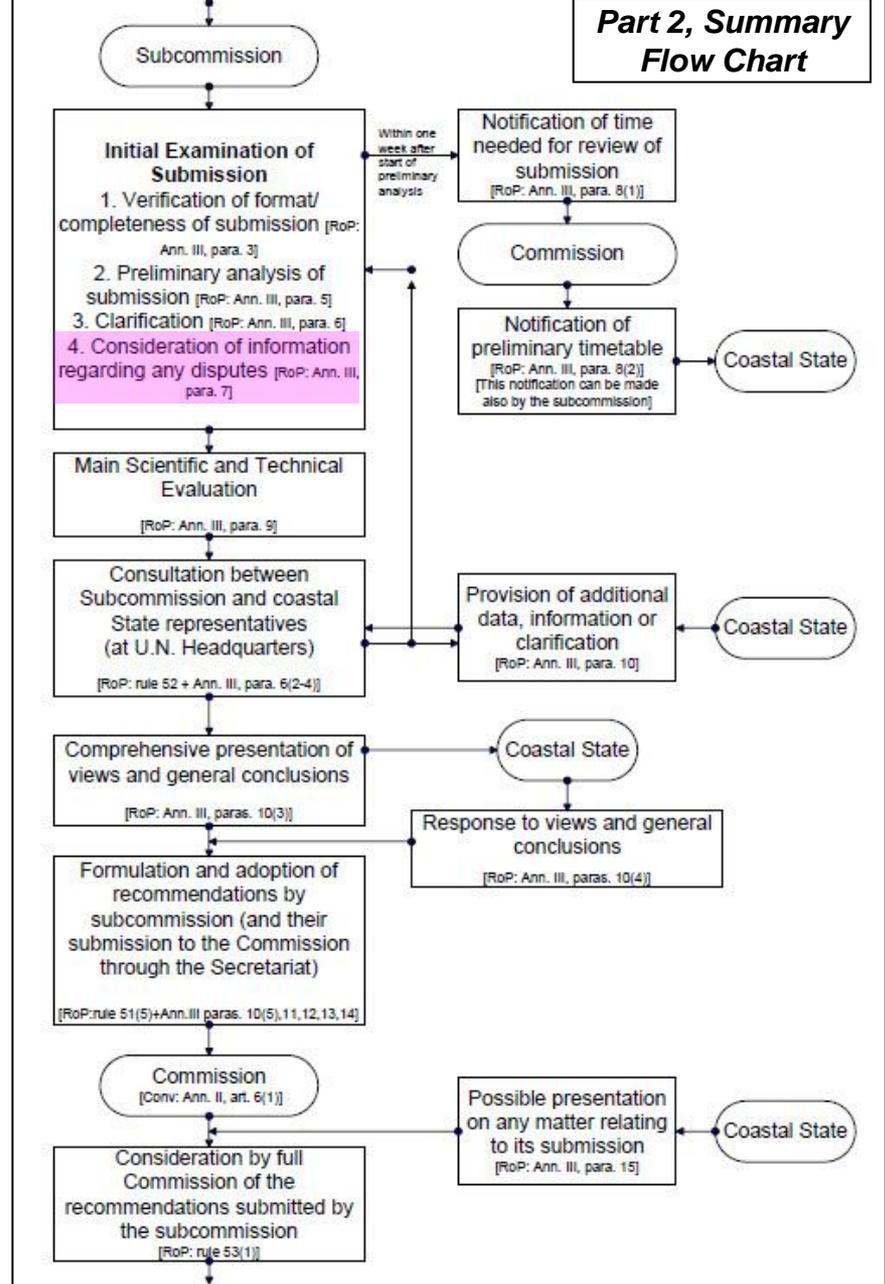


# ANNEX VII, CLCS RULES OF PROCEDURE

## Part 1, Summary Flow Chart



## Part 2, Summary Flow Chart



# SUBMISSIONS AND THIRD-PARTY REACTIONS AS OF APRIL 1, 2010

## TABULATION:

- *Submissions*
- *Third-party reactions*
- *CLCS response to reactions*

[Dublin\\_Conference.xls](#)

# “STATISTICS”

*Submissions and reactions as of April 1, 2010*

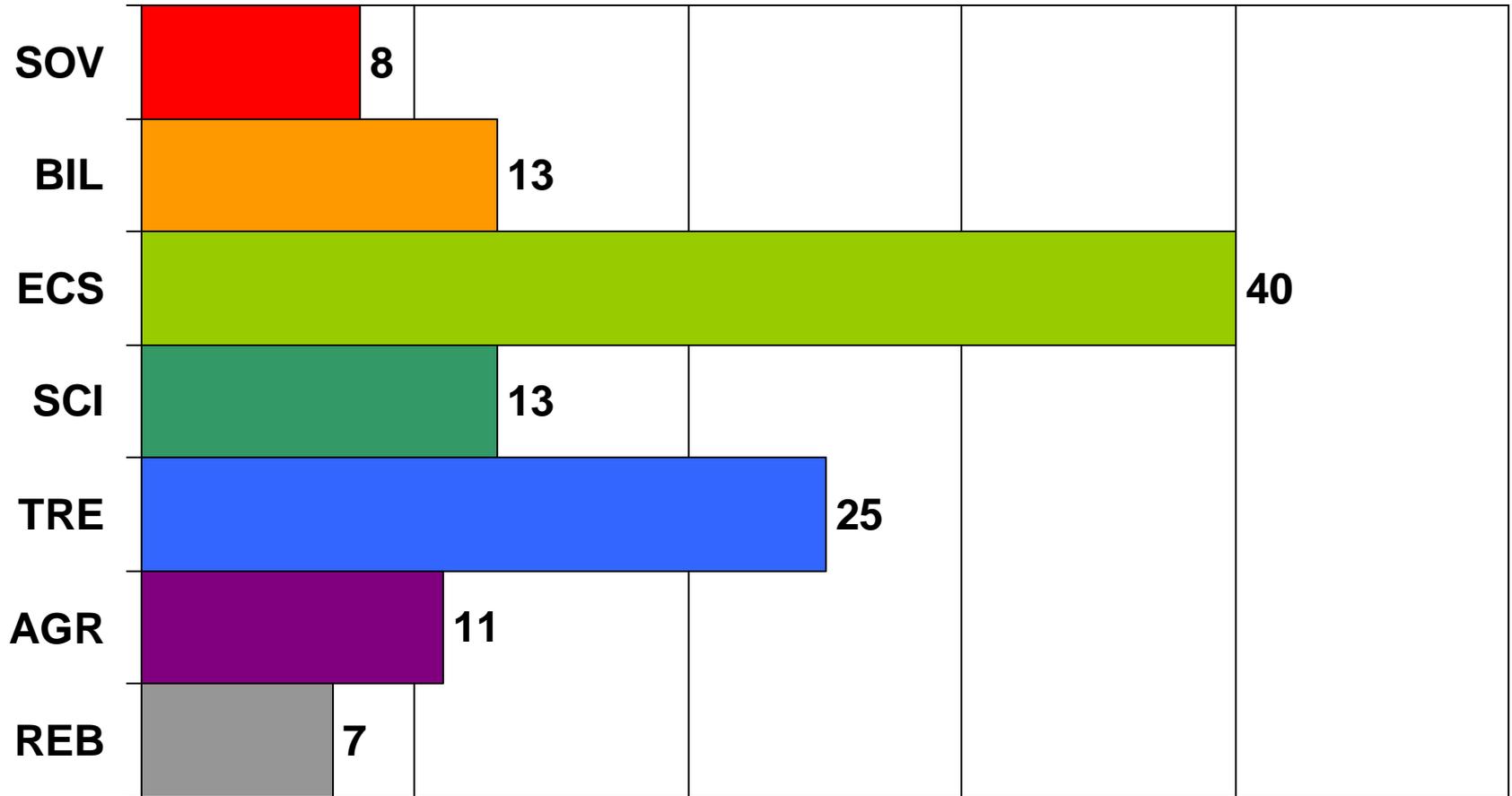
Description	Qty.
Continental shelf submissions presented to date (whole, partial, joint)	51
Submissions for which CLCS has issued recommendations	9
Reactions lodged in connection with the above nine submissions	28
All reactions lodged to date (single- and multiple-issue)*	92
<b>Consent refused by reacting states</b>	<b>16</b>
Rebuttals from submitting states	7

\* Most reactions cited the non-prejudicial character of CLCS decisions. Many also included declarations of a readiness to seek negotiated solutions to disputes.

# CLASSIFICATION OF REACTIONS

CLASS	COLOUR CODE	SIGNIFICANCE
SOV	Red	Infringement of <u>S</u> overeignty
BIL	Orange	Unresolved <u>B</u> ilateral Boundary
ECS	Light Green	Potential <u>E</u> CS Overlap
SCI	Green	<u>S</u> cientific or Technical Issue
TRE	Blue	Reference to Existing <u>T</u> reaty
AGR	Purple	Prior <u>A</u> greement, Joint Submission, No Objection
REB	Grey	<u>R</u> ebuttal of Third-Party Reaction

# ISSUES RAISED IN REACTIONS



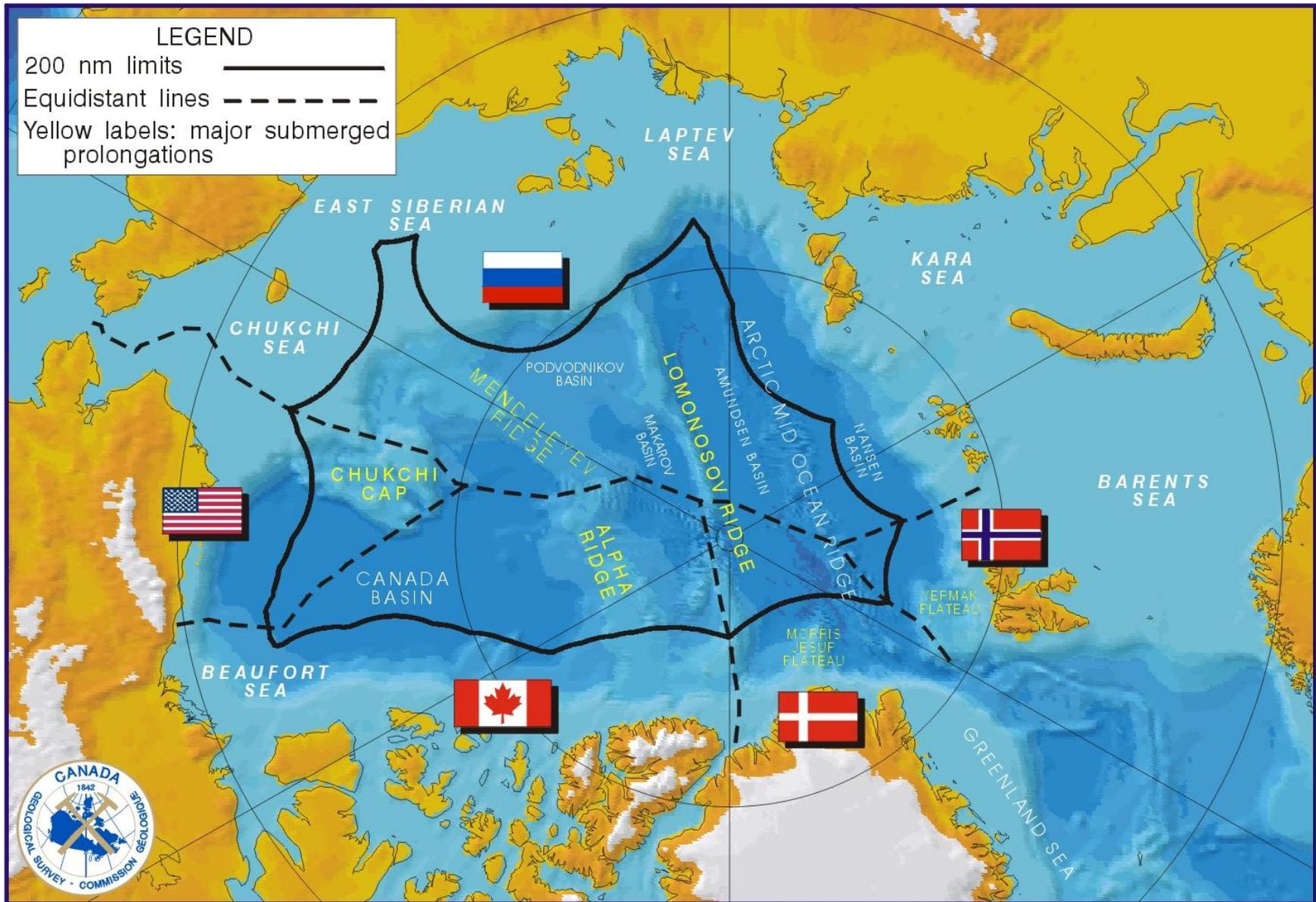
# THIRD-PARTY REACTIONS AND THEIR DISPOSITION BY THE CLCS

Symbol	Disposition by CLCS	Quantity
?	Unspecified	8
X	Disallowed	2
✓	Refer to Subcommission	21
†	Refer to Subcommission at later date	18
‡	Review at later date	26
<b>(Blank)</b>	Not yet addressed by CLCS	36

# **A LOOK AT SOME REGIONAL SCENARIOS**

- **Arctic Ocean**
- **Bay of Bengal**
- **South China Sea**
- **Hatton-Rockall Bank**
- **Antarctica and the Southern Ocean**

# ARCTIC OCEAN

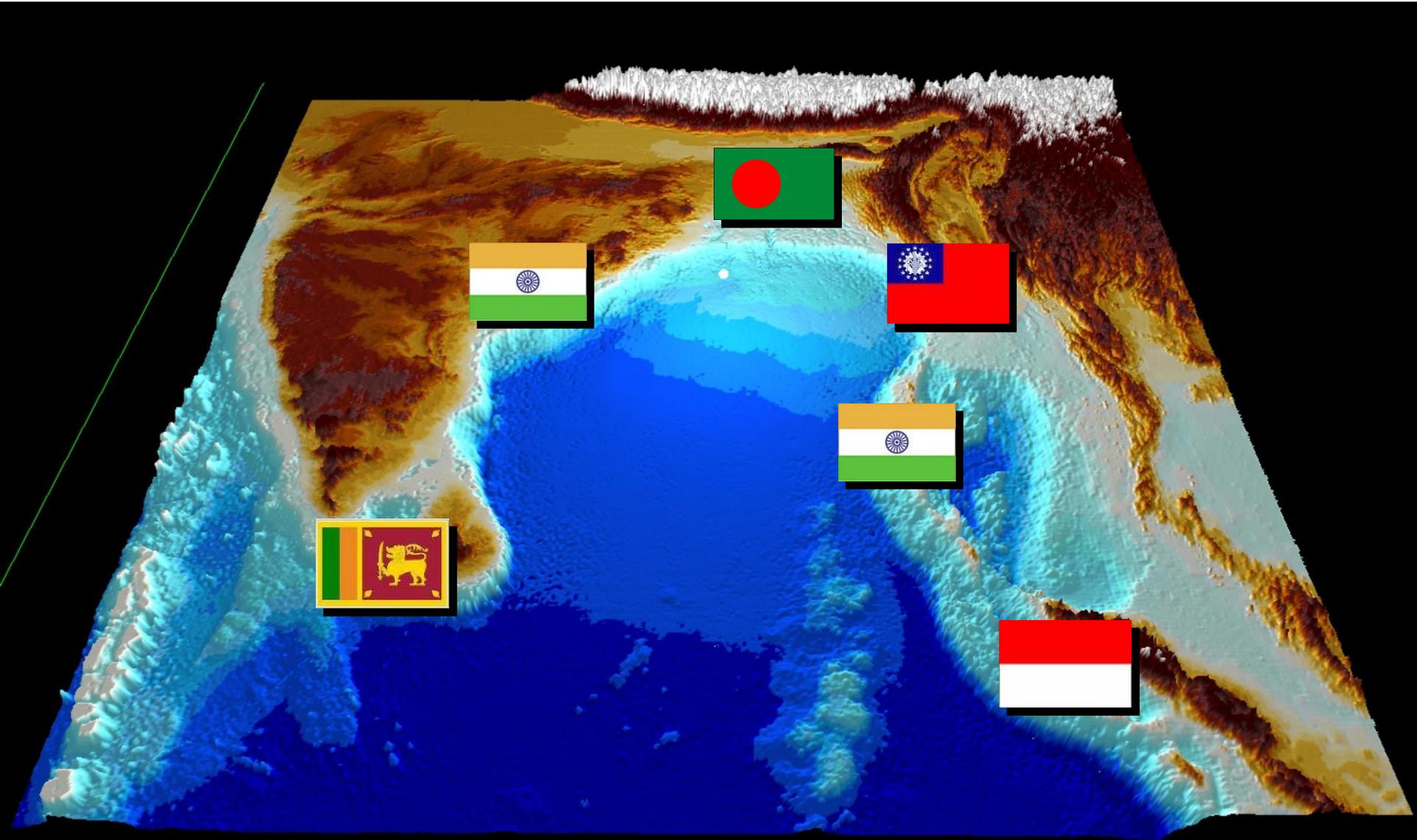


# SUBMISSIONS AND REACTIONS: ARCTIC REGION

Submitting State(s)	Reacting State	SOV	BIL	ECS	SCI	TRE	AGR	REB	Disp.
Russian Federation	Canada				■				?
	Denmark				■				?
	Japan	■	■						?
	USA				■				X
	Norway		■	■					?
Norway	Denmark						■		✓
	Iceland						■		✓
	Russia		■	■					✓
	Spain					■			✓

?	Unspecified	✓	Refer to Subcommittee	‡	Review at later date
X	Disallowed	†	Refer to Subcommittee at later date	(Blank)	Not yet addressed by CLCS

# BAY OF BENGAL



# SUBMISSIONS, REACTIONS, REBUTTAL: BAY OF BENGAL

Submitting State(s)	Reacting State	SOV	BIL	ECS	SCI	TRE	AGR	REB	Disp.
Indonesia	India			■					✓
	Indonesia							■	✓
Myanmar	Sri Lanka				■				‡
	India			■					‡
	Kenya				■				‡
	Bangladesh		■	■	■				‡
Sri Lanka	Maldives			■ ?					
India	Myanmar		■						
	Bangladesh		■	■	■				

?	Unspecified	✓	Refer to Subcommission	‡	Review at later date
X	Disallowed	†	Refer to Subcommission at later date	(Blank)	Not yet addressed by CLCS

# SOUTH CHINA SEA



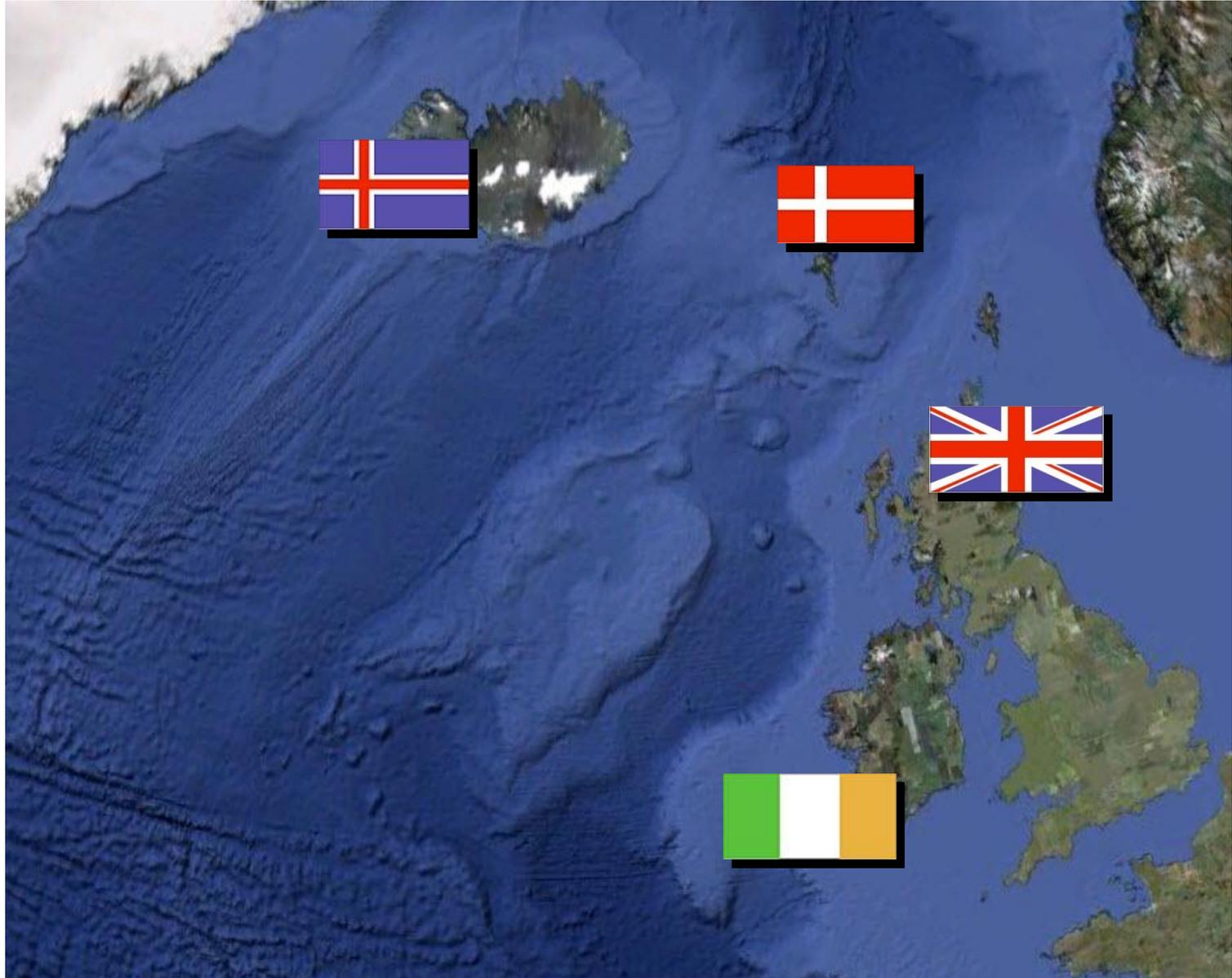
# SUBMISSIONS, REACTIONS, REBUTTALS: SOUTH CHINA SEA

Submitting State(s)	Reacting State	SOV	BIL	ECS	SCI	TRE	AGR	REB	Disp.
Malaysia and Viet Nam	China	■							‡
	Viet Nam							■	‡
	Malaysia							■	‡
	Philippines	■							‡
	Viet Nam							■	‡
	Malaysia							■	‡
Viet Nam	China	■							‡
	Viet Nam							■	‡
	Philippines	■							‡
	Viet Nam							■	‡

Reacting States in **RED**: objecting to consideration of submission by CLCS

?	Unspecified	✓	Refer to Subcommittee	‡	Review at later date
X	Disallowed	†	Refer to Subcommittee at later date	(Blank)	Not yet addressed by CLCS

# HATTON-ROCKALL BANK



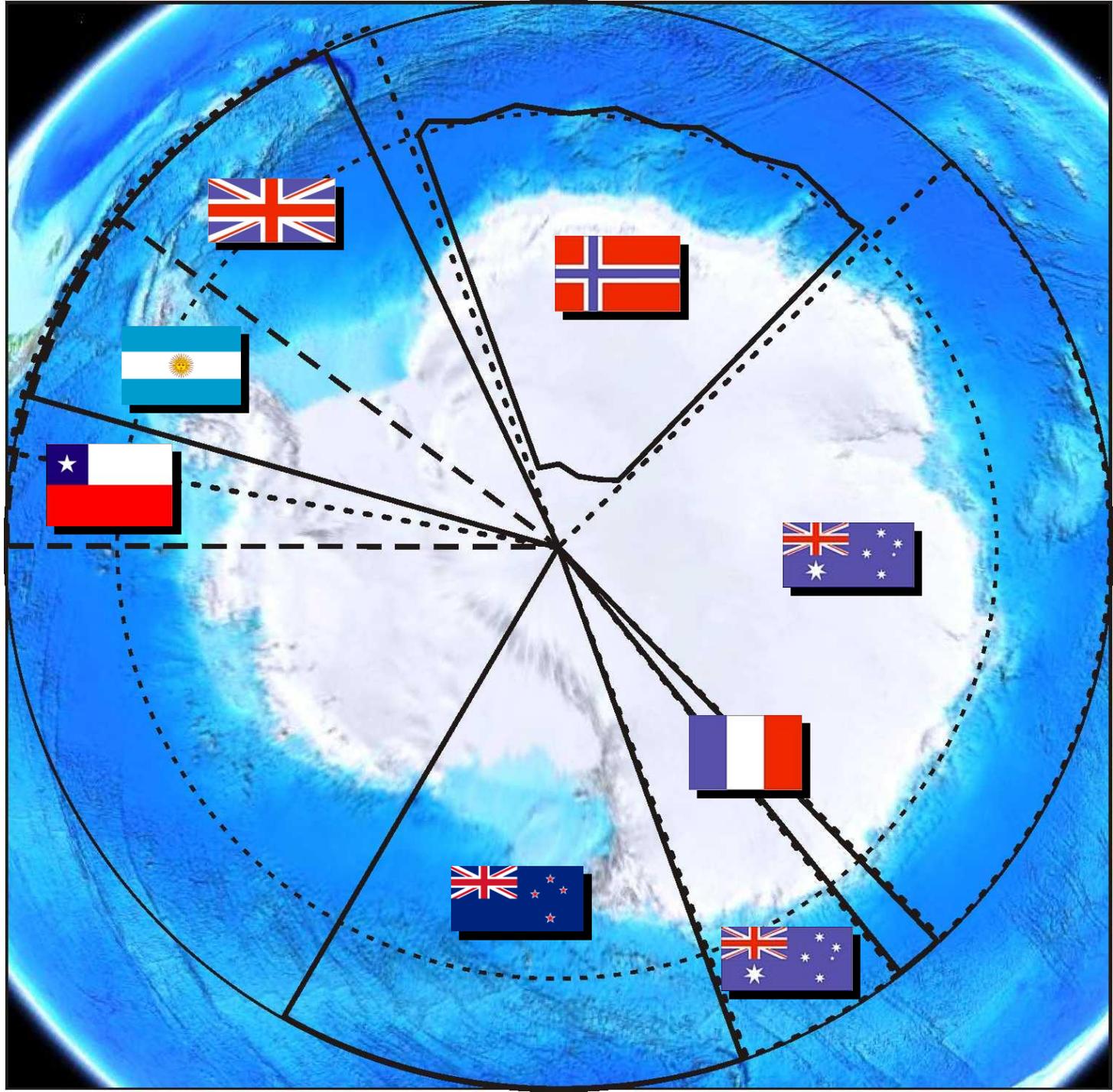
# SUBMISSIONS AND REACTIONS: HATTON-ROCKALL BANK

Submitting State(s)	Reacting State	SOV	BIL	ECS	SCI	TRE	AGR	REB	Disp.
United Kingdom	Iceland								‡
	Denmark								‡
Ireland	Iceland								‡
	Denmark								‡

Reacting States in **RED**: objecting to consideration of submission by CLCS

?	Unspecified	✓	Refer to Subcommittee	‡	Review at later date
X	Disallowed	†	Refer to Subcommittee at later date	(Blank)	Not yet addressed by CLCS

# ANTARCTICA AND THE SOUTHERN OCEAN



# SUBMISSIONS AND REACTIONS: ANTARCTICA AND THE SOUTHERN OCEAN

Submitting State(s)	Reacting State	SOV	BIL	ECS	SCI	TRE	AGR	REB	Disp.
Australia	USA					■			✓
	Russia								✓
	Japan								✓
	Timor-Leste		■						✓
	France			■					✓
	Netherlands								✓
	Germany								✓
	India								?
New Zealand	Fiji			■				✓	
	Japan					■		✓	
	France			■				✓	
	Netherlands					■		✓	
	Tonga		■	■				✓	
France	Netherlands					■			
	Japan								
Argentina	United Kingdom	■				■			+
	USA								+
	Russia								+
	India								+
	Netherlands								+
	Japan								+
Norway	USA					■			
	Russia								
	India								
	Netherlands								
	Japan								
United Kingdom	Argentina	■							

Reacting States in **RED**: objecting to consideration of submission by CLCS

# STATES THAT HAVE DELIVERED PRELIMINARY INFORMATION INDICATING THEIR INTENTION TO MAKE A SUBMISSION

Angola  
Bahamas  
Benin  
Benin and Togo  
Brunei Darussalam  
Cameroon - *Equatorial Guinea*  
Cape Verde  
Chile  
China - *Japan*  
Comoros  
Congo  
Costa Rica  
Cuba  
Democratic Republic of the Congo - *Angola*  
Equatorial Guinea  
Fiji  
Fiji and Solomon Islands  
Fiji, Solomon Islands and Vanuatu  
France (1)  
France (2) - *Canada*  
Gabon  
Gambia

Guinea  
Guinea-Bissau  
Guyana  
Mauritania - *Morocco*  
Mauritius  
Mexico  
Micronesia  
Mozambique  
New Zealand  
Oman  
Papua New Guinea  
Republic of Korea - *Japan*  
Sao Tome and Principe  
Senegal  
Seychelles  
Sierra Leone  
Solomon Islands  
Somalia  
Spain - *Morocco*  
Togo  
United Republic of Tanzania  
Vanuatu

*Red – States that have reacted to preliminary information*

# SUBMISSIONS AND PRELIMINARY INFORMATION AS OF APRIL 1, 2010

Submissions delivered to CLCS	51 <sup>1</sup>
Recommendations adopted by CLCS	9
Submissions in hand & awaiting CLCS assessment	42 <sup>1</sup>
Preliminary Information delivered to CLCS	44 <sup>2</sup>
Additional submissions to come (pending deadlines)	10
More additional submissions to come (pending ratification)	6
<b>POTENTIAL SUBMISSIONS AWAITING CLCS ATTENTION</b>	<b>102</b>

<sup>1</sup> Whole, partial and joint submissions    <sup>2</sup> Multiple renderings from some countries

# PROJECTED COMPLETION OF ARTICLE 76 PROCESS, WORLDWIDE

*Updated from 2007 assessment,  
assuming 104 submissions\* after May 13, 2009*

<i>Number of submissions assessed per year</i>	<i>Required duration of CLCS sessions per year, in weeks</i>	<i>Projected year of completion</i>
2 (current rate)	9	<b>2061</b>
4	18	<b>2035</b>
8	36	<b>2023</b>

*\* All anticipated submissions, including those indicated by Preliminary Information*

# CONCLUSIONS

- When responding to third-party reactions, the CLCS will consider just two classes of dispute:
  - the delimitation of the continental shelf between opposite or adjacent States;
  - other cases of unresolved land or maritime disputes.
- To date, the CLCS has not considered third-party reactions that relate to disputes and/or refusal of consent; these have been deferred to allow affected States an opportunity to resolve the issues.
- At the present rate and given the backlog of current and anticipated submissions, the entire process could require another several decades.

**THANK YOU!**