

COMPLIANCE WITH ARTICLE 76 OF THE LAW OF THE SEA CONVENTION (LOSC) 1982: A BURDEN FOR DEVELOPING STATES – AN AFRICAN PERSPECTIVE.

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Abstract

African broad shelf States, like other broad shelf States in other parts of the world, are required under Article 76 of the LOSC to make submissions in respect of their continental shelf beyond 200 nautical miles to the Commission on Limits of Continental Shelf (CLCS) within a particular time period. For a number of such States the compliance with this obligation is a burden. This paper seeks to explore how compliance with Article 76 is a burden for African broad shelf States and what could be done to assist these States to comply with this obligation.

Introduction

The Law of the Sea Convention (LOSC), the “Constitution for the Oceans”¹ was adopted in 1982, after almost 9 years of extensive negotiations at the third United Nations Conference on the Law of the Sea (UNCLOS III), and entered into force on 14 November 1994.² This widely ratified and rather intricate treaty imposes a complexity of obligations upon its States Parties, including a number of developing States.³ For some of these developing States the compliance with some of these obligations has become somewhat of a burden. One of such burdensome obligations under the LOSC is the requirement that broad shelf coastal States, including those from Africa, should make submissions in respect of their continental shelf beyond 200 nautical miles to a body of the United Nations established under the LOSC, the Commission on Limits of Continental Shelf (CLCS),⁴ within a particular time period. This paper seeks to explore how compliance with Article 76 is a burden for African

¹ “Statement of Ambassador Tommy T.B. Koh, President of the Conference, at its final session in Montego Bay, Jamaica, 11 December 1982”, (reprinted in the Law of the Sea: Official Text of the United Nations Convention on the Law of the Sea, (United Nations, New York, 1983), p.xxxiii)

² 21 I.L.M.1245(1982)

³ As at 25 August 2010, 159 States and the European Community have ratified the LOSC. It has 320 Articles and 9 Annexes.

⁴ See Art.76 (8) and Annex II of LOSC. Ever since the first submission by the Russian Federation in respect of its continental shelf beyond 200 nautical miles, other broad shelf States either have made submissions or are preparing to make submissions in line with their obligations under Article 76 of LOSC 1982. For submissions so far made see http://www.un.org/Depts/los/clcs_new/clcs_home.htm

broad shelf States and what could be done to assist these States to comply with this obligation.

Article 76 of the Law of the Sea Convention (LOSC) 1982

The LOSC states that the continental shelf of a coastal State is the seabed and subsoil that extends beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of its continental margin or in cases of States that do not have a broad continental shelf to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.⁵ This provision acknowledges the natural configuration of the continental shelf of broad shelf States may go beyond 200 nautical miles. It must, however, be pointed out that such extended continental shelf (CS) is limited to a maximum of 350 nautical miles from the baselines or 100 nautical miles from the 2,500 metre isobath.⁶ Two technical and rather complicated methods are provided for establishing the outer limits of such extended CS known as the Irish formula or 1% sediment thickness option and the Hedberg formula or FOS + 60 nautical miles.⁷ These formulas can be used simultaneously by a State in respect of different portions of its extended CS in order to enhance its claim. The final outer limit of the extended CS beyond 200 nautical miles from the baseline is to be measured by straight lines not exceeding sixty nautical miles in length connecting all the fixed points.⁸

In addition, the LOSC provides for a technical body, the CLCS, to consider submissions by coastal State with extended CS and make recommendations with respect to such submissions.⁹ The outer limits established by the coastal State on the basis of such recommendations shall be final and binding.¹⁰ Thereafter, the chart and other relevant information permanently describing the outer limits are deposited with

⁵ Art 76(1)

⁶ Art. 76(5) and (6). However, the 350 nautical miles limit does not apply to submarine elevations that are natural components of the Continental Margin such as plateaux, rises, caps, banks and spurs.

⁷ Art.76 (4) (a) (i) and (ii) respectively.

⁸ Art.76(7)

⁹ The CLCS is a technical body set up under Annex II of LOSC. See Ted 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*, 301-324

¹⁰ Art.76(8)

the Secretary-General of the United Nations, who is required to give such due publicity.¹¹

Although a number of Africa coastal States are thought to have the potential to be broad shelf States, the exact number of such States is not clear.¹² The onus lies upon each potential African States claimants to demonstrate the extent to which its continental margin extends beyond the 200 nautical miles limit.¹³

African Union and the Extended Continental Shelf

The African Union (AU),¹⁴ the successor to the now defunct Organisation of African Unity (OAU),¹⁵ was established to, amongst other things, achieve greater unity and solidarity between the African states and peoples, as well as to promote and defend an African common position on issues of interest to the continent and its peoples.¹⁶ Recently, through its Assembly, the AU at its 10th Ordinary Session adopted a

¹¹ Art.76(9)

¹² Some African States that have been identified as potentially having an extended CS (with the area listed in Sq. km) are: Angola (251,305), Congo(Republic of)(14,652), Equatorial Guinea(15,566), Gabon(136,752), Gambia(10,662), Ghana(25,943)Guinea(27,897), Guinea Bissau(38,359), Kenya(20,782), Madagascar(2,087,434), Mauritania(53,312), Mauritius(321,039), Morocco(824,562), Mozambique(123,258), Namibia(1,111,735), Nigeria(103,772), Senegal(106,650), Seychelles(321,039), Sierra Leone(51,030), Somalia(242,679), South Africa(184,863), Tanzania(55,681), Togo(15,566) and Democratic Republic of Congo(formerly Zaire)(13,431). See Murton, B.J., Parson, L.M, Hunter, J.H., and Miles, P.R “Evaluation of the Non-living Resources of the Continental Shelf Beyond the 200 mile limit of the World’s Margins” in International Seabed Authority (ed.), *Minerals other than Polymetallic Nodules of the International Seabed Area, Proceedings of the International Seabed Authority’s Workshop, Kingston, Jamaica, June 26 -30, 2000*, ISA/04/01, 667 at 736. A 2004 United Nations Press Release, UN Press Release, SEA/1800 of 27 May 2004, had estimated that there are between 30 and 60 states that may qualify as broad-shelf states, though it admitted that the actual number would only be determined as the CLCS examines the submissions of coastal state.

¹³ See Edwin Egede, “The Outer Limits of the Continental Shelf: African States and the 1982 Law of the Sea Convention,” (2004)35 *Ocean Development and International Law*, 157 at 159-160.

¹⁴ The AU Constitutive Act came into force on 26 May 2001, <http://www.africa-union.org/home/Welcome.htm> The Constitutive Act has been ratified by all 53 member states of the O.A.U (Morocco is not a member of the AU), of these 38 AU Member States are coastal States with varying coastlines: Algeria (998); Angola (1600); Benin (121); Cameroon (402); Cape Verde (965); Comoros (340); Democratic Republic of Congo (37); Republic of Congo (169); Cote d’Ivoire (515); Djibouti (314); Egypt (2450); Equatorial Guinea (296); Eritrea (2,234 total- mainland on Red Sea, 1151 and Islands on Red Sea, 1083); Gabon (885); Gambia (80); Ghana (539); Guinea (320);Guinea-Bissau (350);Kenya (536);Liberia (579);Libya (1770);Madagascar (4828);Mauritania (754);Mauritius (177); Mozambique (2470);Namibia (1572);Nigeria (853);Sao Tome & Principe (209); Senegal (531); Seychelles (491); Sierra Leone (402); Somalia (3025); South Africa (2798); Sudan (853); Tanzania (1424); Togo (56); Tunisia (1148) and Western Sahara (1110). All the lengths are calculated in Kilometres (Km). Figures from C.I.A – The World Fact book 2004. See <http://www.cia.gov/cia/publications/factbook/index.html>

¹⁵ The OAU was established on 25 May 1963. For OAU Charter see 2 ILM (1963) 766. Also See Teslim O. Elias, “The Charter of the Organisation of African Unity” (1965) 59 *American Journal of International Law*, 243-267.

¹⁶ Art. 3 of the Constitutive Act.

decision in respect of the extended Continental Shelf of African coastal States.¹⁷ This decision was made with the consciousness of:

*“the major geopolitical and strategic stakes linked to the African continental shelf and of its abundant mineral and biological resources, which constitute an important source of foreign currency earnings for the economic development of the continent.”*¹⁸

Resources of the Outer Continental Shelf

The claim by African broad shelf states to the continental shelf beyond 200 nautical miles is largely premised on economic considerations, based on the perception of prospects of valuable natural resources located therein.¹⁹ Earney conjectures that four main classes of nonliving resources are likely to be discovered in the CS beyond 200 nautical miles: hydrocarbons; construction aggregates and sand; minerals in placer deposits such as diamonds, gold, and ilmenite; and industrial chemicals such as sulphur and phosphate.²⁰ In addition, there is the possibility of generating a lot of money from marine biodiversity within the extended CS, which have vast potential markets in such industries as the pharmaceutical, the waste treatment, food processing, oil-well services and paper processing industries.²¹ So far, there has been no actual exploitation of the extended CS by broad shelf States. Nonetheless, with rapidly improving technology for offshore mining of natural resources, the possibility of exploitation of the extended CS in the near future is very probable. Recently, at a seminar jointly organised by the ISA and the Royal Institute of International Affairs (Chatham House) it was speculated that the first commercial production of resources from the outer continental shelf could occur by 2015.²²

¹⁷ Decision on Extension of the African Continental Shelf and Climate Change, Doc.EX.CL/391 (XII), Decisions and Declarations of the 10th Ordinary Session of the Assembly of the AU, 31 January-2 February 2008, http://www.africa-union.org/root/au/Conferences/2008/january/summit/docs/decisions/Assembly_Decisions_171-191.pdf

¹⁸ Para.3

¹⁹ See Ford, N., “Oil from deep waters (2): Africa: World’s greatest deepwater potential,” *Platts Energy Economist*, Issue 248, June 2002 and Victor Prescott V., “Resources of the Continental Margin and International Law,” in Peter Cook and Chris Carleton (eds.), *Continental Shelf Limits: the scientific and legal interface*, (2000, Oxford University Press) at 75-77

²⁰ F.C.E. Earney, *Marine Mineral Resources* (1990, London) referred to in Prescott, *ibid* at 66-71.

²¹ It has been estimated that the marine biotechnology-related products would be worth up to US\$100 billion in sales. See Joanna Mossop, “Protecting Marine Biodiversity on the Continental Shelf Beyond 200 Nautical Miles” (2007) 38 *Ocean Development & International Law*, 283 at 285 who cited Salvatore Arico and Charlotte Salpin, *Bioprospecting of Genetic Resources in the Deep Seabed: Scientific, Legal and Policy Aspects*, UNU-IAS Report(2005) 17

²² Paras. 71 and 72 of ISBA/16/A/2 of 8 March 2010.

It is therefore not surprising that African coastal States potentially with extended Continental Shelf have shown a keen interest in this part of the ocean space because of the possibility of generating considerable revenue from it. For instance, the Namibian government indicated that its interest in claiming a continental shelf beyond 200 nautical miles is premised on the potential of it containing heavy mineral sands, diamonds, phosphites, manganese nodules, hydrocarbons, gas hydrates and gas seeps. According to the Namibian Minister of Land, Resettlement and Rehabilitation, a move by Namibia to extend its continental shelf up to 350 nautical miles, “*will benefit the country’s economy now and in the future.*”²³ In addition, a former President of Nigeria, recently charged one of the bodies involved in Nigerian extended continental shelf project, the National Boundary Commission (NBC), to work vigorously on the extension of the nation’s CS because the successful conclusion of the exercise would boost Nigeria’s revenue base.²⁴

Extended Territory

Further, the interest of African coastal States in the extended Continental Shelf is based on the perception that this would be an opportunity to expand their territory. Ian McLachlan, the project leader of South Africa’s extended continental shelf claim, is reported to have pointed out that though mining in the extended continental shelf is not likely in the near future, South Africa is still putting itself out on this project because of the “*potential to gain new territory equal to about 30% of [their] land area without going to war.*”²⁵ In addition, a former President of Nigeria stated that the extension of Nigerian Continental Shelf would “*increase the frontiers of [Nigerian] national sovereignty.*”²⁶

²³ See Media Release from the Namibian Cabinet Chambers titled “Cabinet approves N\$2million for Delineation of Continental Shelf.” This Media Release is in respect of the decision of the Cabinet at its 28th meeting held on 5 November 2002.

<http://www.namibian.com.na/2002/November/national/029725C34A.html> See also Leon E. Moller, “The Outstanding Namibian Maritime Boundaries with Angola and South Africa”, (2003)18 (2) *The International Journal of Marine and Coastal Law*, 241 at 248

²⁴ See Lucky Nwankere, “... Calls for extension of continental shelf”, *Nigerian Daily Sun Newspaper*, 8 October 2008, <http://www.sunnewsonline.com/webpages/news/national/2008/oct/08/national-08-10-2008-002.htm>

²⁵ Irma Venter, “Australia will be first to excel at mining the Ocean floor – Canadian Prof”, *Mining Weekly Online*, 14 March 2008, <http://www.miningweekly.com/article.php?id=129192>

²⁶ See note 24 above. An advisor to certain developing States preparing their submissions, Paul Kelly, is quoted to have said: “*This will probably be the last big shift in ownership of territory in the history of the Earth. Many countries don’t realize how serious it is.*” Paul Kelly, “The Convention on the Law of the Sea: Why the critics are wrong”, <http://www.jointoceancommission.org/news-room/in-the->

Although the extended CS would amount to “*new territory*”, it must be pointed out that a coastal State has rather limited rights over the CS. The coastal State exercises exclusive sovereign rights over the CS only for the limited purpose of exploring and exploiting its natural resources.²⁷ Its right over the CS does not affect the legal status of the sub adjacent waters and the airspace above the waters and the freedom of navigation and other rights and freedoms of other States.²⁸ The regime of the CS is merely a functional one that seeks to reconcile the competing interest of the Coastal States’ “sovereign rights” to resource exploration and exploitation in its CS with the rights of other States to exercise the freedoms of the High Seas.²⁹

Submission by African States to the Commission on the Limits of the Continental Shelf

Deadline for Submission

States Parties to the LOSC, including African States, were initially required by LOSC to make submissions in respect of their extended continental shelf within 10 years of the entry into force of the Convention for that State.³⁰ However, at the Eleventh Meeting of the States Parties to the Law of the Sea Convention (SPLOS) in 2001, a decision was taken that the commencement period for calculating the 10-year period for states, which became parties to the Convention before 13 May 1999 (when the Commission adopted its scientific and technical guidelines), would be 13 May 1999.³¹ All broad-shelf African states that became states parties to LOSC before 13 May 1999 were therefore required to make submissions within 10 years from that date, a deadline of 13 May 2009. On the other hand, those that became parties to the Convention after this date would be required to make submissions within 10 years from the date they become parties to the treaty.

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[01 The Convention on the Law of the Sea Why the Critics are Wrong@World Oil.pdf](#)

²⁷ Art.77 of LOSC

²⁸ Art.78 of LOSC

²⁹ Friedrich Kratochwil, “Of Systems, Boundaries, and Territoriality: An Inquiry into the Formation of the State System” (1986) 39(1) *World Politics*, 27 at 48-50

³⁰ Art. 4 of Annex II of the LOSC. The Convention came into force on November 16, 1994.

³¹ See Para. 81 of the Report of the Eleventh Meeting of the States Parties to the Law of the Sea Convention (SPLOS), SPLOS/73 of 14 June 2001.

A number of African broad shelf States were unable to meet the deadline of May 2009 due to the complexities and technicalities involved in the preparation of submissions, as well as the cost implications.³² A number of African States have expressed their concerns about this. For instance, the Kenyan delegation to SPLOS expressed the following concerns:

*“...the complexity of the issues to be investigated and costs involved in compiling, a credible submission are enormous. Implementation of article 76 of the Convention requires collection, assembly, and analysis of a body of relevant hydrographic, geological and geophysical data in accordance with the provisions outlined in the Scientific and Technical Guidelines. The complexity, scale and the cost involved in such programme, though varying from State to State according to the different geographical and geophysical circumstances require enormous amounts of resources.”*³³

The AU decision called on coastal member States to speed up the process of preparing and submitting their claims for the extension of the limits of their continental shelf with a view to meeting the deadline at that time of 12 May 2009.³⁴ While calling on its African broad shelf States to strive to meet the deadline, the AU recognised the constraints faced by a number of such States and therefore encouraged all member States to adopt a common position and submit to the United Nations General Assembly a recommendation for the postponement of the deadline by an additional

³² Chris Carleton, “Article 76 of the UN Convention on the Law of the Sea – Implementation Problems from the Technical Perspective”, (2006)21(3) *The International Journal of Marine and Coastal Law*, .287 at 288; 306. Mauritius and Seychelles, the only African States to have made their submissions, in their Executive Summary indicated that they faced significant challenges “posed by geographical isolation, technical capacity and financial resources”. See Para.1.11 of Executive Summary, http://www.un.org/Depts/los/clcs_new/submissions_files/submission_musc.htm.

³³ Statement by the Kenya Delegation to the Eighteenth Meeting of States Parties to the 1982 United Nations Convention on the Law of the Sea(UNCLOS): 13th -20th June 2008, New York, <http://www.kenyaun.org/documents/18THMTGUNCLOS.pdf> . See also UNGA, 62nd Session, A/62/PV.64 of 10 December 2007, p.26, where the Kenyan representative at the 62nd Session of the United Nations General Assembly said that: “*The implementation of article 76 of the [LOSC] continues to pose serious financial and technical challenges to coastal developing States.*”

³⁴ Para. 4. This decision appears to assume that all African States necessarily have the same deadline. This is not the case. For instance, Madagascar, an acknowledged broad shelf State member of the AU, became a party to the LOSC on 22 August 2001 and therefore has a deadline to submit to the CLCS by August 2011. Nonetheless, it must be pointed out that a number of African broad shelf States fell within the May 2009 deadline. A number of African broad shelf States in response to a request by the SPLOS calling for broad shelf coastal States to submit to its Secretariat by the end of November 2007 (for work planning purposes of the CLCS) information on when they intend to make their submissions, had indicated that they will make such submissions before the deadline of May 2009. See Issues related to the workload of the Commission on the Limits of the Continental Shelf – tentative dates of submissions, SPLOS/INF/20 of 16 January 2008

period of ten years.³⁵ It is interesting to note that the AU limited itself to encouraging its members to lobby the General Assembly of the United Nations and not the SPLOS. Although, the General Assembly undoubtedly plays a key role in the implementation of the LOSC, the SPLOS by its 2001 decision fixing the commencement period for calculating the deadline at 13 May 1999 would perhaps have been the more appropriate body for the AU to call its members to lobby for a further extension.³⁶

Recent Developments on Deadline for Submission

Recently, the SPLOS decided that a coastal States may satisfy the time period (referred to in article 4 of annex II and the earlier SPLOS decision in 2001) by submitting to the Secretary-General preliminary information indicative of the extended continental shelf, along with a description of the status of preparation and the intended date of making the actual submission.³⁷ Pending the receipt of the submission the SPLOS, however, makes it clear that the CLCS shall not consider the preliminary information.³⁸ This comes out as an attempt to reach a compromise between States clamouring for a further extension of the deadline and those not prepared to consider any such further extension.³⁹ In addition, the recent SPLOS decision is an attempt at a pragmatic resolution of certain outstanding issues. The intention would appear to be that this decision would have a two-pronged effect. On the one hand, it seeks to address the issue of the difficulties faced by some developing States in meeting the May 2009 deadline. It therefore merely requires these States to submit whatever information they are able to obtain before the deadline and thereby

³⁵ Paras. 5 and 6

³⁶ See Tullio Treves, "The General Assembly and the Meeting of States Parties in the Implementation of the LOS Convention" in Alex G. Oude Elferink, (ed.), *Stability and Change in the Law of the Sea: The Role of the LOS Convention*, (2005, Koninklijke Brill NV), 55-74. Earlier, the Commonwealth, which in 2004 and 2005 had expressed concerns about the ability of some of its members to meet the ten-year deadline due to the complexities and expenses involved in preparing the submissions, was more extensive in its choice of the forum for its members to lobby.³⁶ It, amongst other things, recommended that all member States lobby both the General Assembly and SPLOS for an extension of the impending 2009 deadline. See Para.4 of Meeting of Law Ministers of Small Commonwealth Jurisdictions, Marlborough House, London, 21-22 October 2004 – Final Communiqué http://www.thecommonwealth.org/document/34293/35232/141082/meeting_of_ministers_of_small_commonwealth_jur.htm and Para.45 of Meeting of Commonwealth Law Ministers, Accra, Ghana, 17-20 October 2005 – Communiqué, http://www.thecommonwealth.org/shared-asp-files/uploadedfiles/2A07BB49-003F-4916-8B21-C368B0DE486C_FINAL-LMM-COMUNIQUE.pdf

³⁷ Para 1(a) of SPLOS/183 of 24 June 2008

³⁸ Para 1(b), Ibid

³⁹ Para 73, SPLOS/148

technically meets the ten-year deadline. On the other hand, by exempting the CLCS from considering the information until the actual submission of all the data in line with Article 76 and Annex II, it has the practical effect of reducing the number of submissions the CLCS would consider and in effect reduce its workload.⁴⁰ It is suggested that while submitting the preliminary information would ensure formal compliance with the ten-year deadline, in reality it does not deal with the real constraint that African and other developing States have with meeting the deadline, namely the lack of technical expertise and finance.⁴¹

How have broad shelf African States fared with meeting the deadline? A handful of African States, namely Cote d'voire, Ghana, Kenya, Namibia, Nigeria, Mozambique & Mauritius and Seychelles (joint submission in respect of the Mascarene Plateau; Mauritius in respect of Rodrigues Island and Seychelles in respect of the Northern Plateau Region) and South Africa (in respect of the mainland of its territory), were able to beat the May 2009 deadline for submission. On the other hand, a number of African States unable to meet the deadline have had to submit preliminary information.⁴² The issue that will of course arise is whether there would be a deadline for the subsequent actual submission. If one is to take a cue from the situation of partial submissions made within the ten-year deadline,⁴³ where there is no suggestion of a deadline for a subsequent submission by the submitting State, it may perhaps be safe to arrive at the conclusion that there is no deadline for the actual submission made after the preliminary information. However, it must be pointed out that the

⁴⁰ The Chairman of the CLCS has estimated that if the Commission continued with its present working arrangements the projected time for the completion of the consideration of submissions could be 2035. Para 59 of SPLOS/164 of 16 July 2007

⁴¹ This is not a uniquely African problem. See the position of the small island pacific island State of Nauru, which recently notified the United Nations Secretary-General of "*its present inability owed to its current lack of the required capacity and resources to fulfil the legal requirements under article 76 of the Convention.*" Para.8 of SPLOS/INF/22 of 22 May 2009

⁴² See Table in Appendix I below, which is an excerpt from the presenter's forthcoming book titled "Africa and the Deep Seabed Regime: International Law and Politics of the Common Heritage of Mankind," on the status of African coastal broad shelf States' submission to CLCS. The information is as at 25 August 2010.

⁴³ See Art.76 (10) and Art.9 of Annex II of LOSC and Rule 46(1) and Annex I, Para 3, of the Rules of Procedure of the Commission on the Limits of the CS, CLCS/40 of 2 July 2004. The submission of Ireland on 25 May 2005, New Zealand on 19 April 2006, joint submission of France, Ireland, Spain and the United Kingdom on 19 May 2006; Norway on 27 November 2007 and Indonesia on 16 June 2008 are partial submissions. See http://www.un.org/Depts/los/clcs_new/clcs_home.htm On the Irish submission, which was the first partial submission, see generally Clive R. Symmons, "The Irish Partial Submission to the Commission on the Limits of the Continental Shelf in 2005: A Precedent for Future Submissions in the Light of the 'Disputed Areas' Procedure of the Commission?" (2006) 37(3-4) *Ocean Development and International Law*, 299

actual submission should in good faith be made within a reasonable time.⁴⁴ African States submitting preliminary information, which are amongst the least developed States (LDCs),⁴⁵ would need assistance to make actual submissions and thereby comply with Article 76.

African States and Possible Assistance

Not surprisingly, the AU decision called on specialised agencies of the UN system to provide African broad-shelf States all the assistance required to prepare their submissions.⁴⁶ It must be noted, however, that beyond the UN System there are other avenues for African broad shelf States to obtain assistance. This section will examine some of such opportunities that are available not only within the UN system but beyond.

Technical Assistance

Commission on the Limits of the Continental Shelf (CLCS)

Under Annex II of the LOSC, the CLCS as one of its functions, if so requested by a coastal State preparing for submission, may provide through its members scientific and technical advice to such coastal State.⁴⁷ This advice may be provided by a maximum of three CLCS members, including the member who is a national of the applicant State.⁴⁸ The CLCS has a Standing Committee to deal with such requests.⁴⁹

⁴⁴ See Edwin Egede, "Submission of Brazil and Article 76 of the Law of the Sea Convention (LOSC) 1982", (2006) 21(1) *The International Journal of Marine and Coastal Law*, 33 at 38 in respect of partial submissions. For e.g. Mozambique put in its Preliminary Information on 11 May 2009 (stating that 'The government of Mozambique is committed to deliver its full submission within 1 year from now, unless otherwise specified in light of other circumstances') and not too long after on 7 July 2010 made the actual submission. Other African States that have submitted preliminary information have given an idea of when they anticipated they would make their actual submission. For e.g. Angola anticipates it would make its actual submission by the end of 2013; Cape Verde by the end of December 2014, 'unless otherwise specified in the light of unforeseen circumstances'; Gambia states that 'A full submission is planned to take place within 10 years, unless otherwise specified in light of unforeseen circumstances'; Mauritius anticipates it would make actual submission in respect of Chagos Archipelago by 2012; Seychelles expects to complete submission by 2011; Sierra Leone anticipates it would submit by the end of 2010; Somalia states that 'A full submission should, in their view, take place within 10 years, unless otherwise specified in light of other circumstances' and Tanzania which submitted its preliminary information on 7 May 2009 anticipates that the actual submission would be two years after this date. See http://www.un.org/Depts/los/clcs_new/clcs_home.htm

⁴⁵ See Table I in the Annex to this Paper and note 68 below.

⁴⁶ Para.8

⁴⁷ Art.3 (1) (b) of Annex II of LOSC. See also Rule 55(1) of the Rules of Procedure, CLCS/40/Rev.1 of 17 April 2008. See Egede, "Submission of Brazil and Article 76 of the Law of the Sea Convention (LOSC) 1982", op.cit. at 47-49

⁴⁸ Rule 55(3) of the Rules of Procedure. The current members of the CLCS for 2007-2012 are: Albuquerque, Alexandre Tagore Medeiros de(Brazil); Astiz, Osvaldo Pedro(Argentina); Awosika, Lawrence Folajimi(Nigeria); Brekke, Harald(Norway); Carrera Hurtado, Galo(Mexico); Charles, Francis L.(Trinidad and Tobago); Croker, Peter F.(Ireland); Fagoonee, Indulall(Mauritius); German,

Although, so far there has been no formal request for advice by any broad-shelf States,⁵⁰ there is indication that some African broad-shelf States have sought and obtained pertinent scientific and technical advice from members of the CLCS, both past and present. For instance, in their recent joint submission Mauritius and Seychelles indicated that they obtained advice from three present members and two previous members and in the case of Nigeria, Dr Lawrence Folajimi Awosika, a member of the CLCS, was the head of the technical team of the Nigerian Extended Continental Shelf Project.⁵¹ Perhaps the AU may wish to consider co-opting all African CLCS members to provide expert advice to all African broad-shelf States that may so request. There is a benefit in obtaining such advice, especially from CLCS members with immense experience acquired from the consideration of previous submissions.⁵²

Division for Ocean Affairs and the Law of the Sea (DOALOS)

The Division for Ocean Affairs and the Law of the Sea (DOALOS) has been very active in delivering training courses at regional/sub-regional level to assist developing States in the preparation of submissions to CLCS.⁵³ For instance, in 2005, the DOALOS held training in Ghana for African States with a potential for an extended CS. Fifty-four technical and administrative staff from sixteen African States attended the training that was done in collaboration with the government of Ghana and the

Mihai Silviu(Romania); Jaafar, Abu Bakar(Malaysia); Jaoshvili, George(Georgia); Kalngui, Emmanuel(Cameroon); Kazmin, Yuri Borisovitch(Russian Federation); Lu, Wenzheng(China); Oduro, Isaac Owusu(Ghana); Park, Yong-Ahn(Republic of Korea); Pimentel, Fernando Manuel Maia(Portugal); Rajan, Sivaramakrishnan(India); Rosette, Michael Anselme Marc(Seychelles); Symonds, Philip Alexander(Australia) and Tamaki, Kensaku(Japan),

http://www.un.org/Depts/los/clcs_new/members_expertise.htm

⁴⁹ See http://www.un.org/Depts/los/clcs_new/commission_advice.htm

⁵⁰ See Para 94 of Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission, CLCS/66 of 30 April 2010

⁵¹ See Executive Summary of Mauritius and Seychelles

http://www.un.org/Depts/los/clcs_new/submissions_files/submission_musc.htm They stated that they obtained advice from the following present members of the CLCS: Mr Michael Rosette(Seychelles); Mr Harald Brekke(Norway) and Dr Galo Carrera(Mexico), as well as the following past members: Dr Andre Chan Chim Yuk(Mauritius) and Dr Karl Hinz(Germany)

⁵² For Curricula Vitae of CLCS members see

http://www.un.org/Depts/los/clcs_new/members_expertise.htm and SPLOS/151 of 19 March 2007.

See Ron Macnab and Lindsay Parson, "Continental Shelf Submissions: The Record to Date", (2006) 21(3) *International Journal of Marine and Coastal Law*, 309 at 319-321

⁵³ These training courses are further to various General Assembly Resolutions encouraging capacity building for developing States, including African States, to enable them, amongst other things, to make submissions in respect of their extended CS. See General Assembly Resolutions 59/24 of 4 February 2005(Paras. 8 to 12) and 60/30 of 8 March 2006(Paras. 9 to 19).

Commonwealth Secretariat and supported by the AU and ECOWAS.⁵⁴ Also in 2007, another training course was held in South Africa in collaboration with the South African government, in co-operation with UNEP/Grid-Arendal and the Federal Institute for Geosciences and Natural Resources of Germany. Forty-three technical and administrative staff from nine African States attended the latter training.⁵⁵

The DOALOS has also provided on its website a very useful directory on various sources for training, advice, expertise and technological services in respect of the extended CS, which will be helpful for developing States, including African States.⁵⁶ This will need to be up dated regularly and given wider publicity, especially to developing States.

United Nations Environmental Programme (UNEP) Shelf Programme

The UNEP through its Global Resource Information Database (GRID) network in Arendal, Norway, established the UNEP Shelf Programme to assist broad-shelf developing States and Small Island Developing States (SIDS) to comply with their obligations under Article 76 of LOSC.⁵⁷ It provides for these States a free of charge one stop data shop, which provides services such as the storing, handling and facilitating geo-scientific marine research data to support Article 76 submissions and the assistance in interpreting and processing such data.⁵⁸ It also provides access to relevant workshops and training for the project team of such States dealing with the preparation of the submissions to the CLCS. The Programme has worked with the extended CS Project teams of a number of African States, including Kenya,

⁵⁴ This training took place from 5 to 9 December 2005 and was attended by participants from Angola, Benin, Cape Verde, Cote d'Ivoire, the Democratic Republic of Congo, Gabon, the Gambia, Guinea, Guinea-Bissau, Mauritania, Namibia, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone and Togo. Paras 48 and 49 of Report of the Secretary-General, Oceans and Law of the Sea, to the 61st Session of the General Assembly, A/61/63 of 9 March 2006.

⁵⁵ This training took place from 13 to 17 August 2007 and was attended by participants from Angola, Comoros, Madagascar, Mauritius, Mozambique, Namibia, Seychelles, South Africa and the United Republic of Tanzania. Para.270 of Report of the Secretary-General, Oceans and Law of the Sea, to the 62nd Session of the General Assembly (Addendum), A/62/66/Add.1 of 31 August 2007.

⁵⁶ http://www.un.org/Depts/los/clcs_new/sources/sources_of_expertise.asp, it reflects information received as at 23 June 2008.

⁵⁷ The UNEP Programme was established in 2004 based on Para. 39 of the General Assembly Resolution 57/141 of 21 February 2003.

⁵⁸ See UNEP Shelf Programme website, <http://www.continentalshelf.org/>

Madagascar, Mauritius, Mozambique, Seychelles and Tanzania.⁵⁹ It is hoped that more African States would take advantage of this opportunity of assistance.

United Nations Educational, Scientific and Cultural Organisation (UNESCO), Intergovernmental Oceanographic Commission (IOC)

The IOC is presently working together with UNEP/Grid-Arendal and the New Partnership for Africa's Development (NEPAD) to assist broad-shelf African States to prepare their submissions.⁶⁰ In 2008, these three agencies prepared a draft document mapping out strategy on capacity-development for delineation of the outer limits of the CS of African Coastal States.⁶¹ The strategy, amongst other things, outlines responsibilities and activities both for collaborating UN agencies, such as UNESCO/IOC and UNEP-GRID, and for the African States that would increase efficiency and effectiveness in efforts to ensure early submissions by these States. It also identifies ways to assist these States in preparing the desktop study, a crucial preliminary part of the preparation process for submission. In addition, it advocates a rather interesting co-operative strategy of providing a networking platform for African experts and authorities involved in the claims preparation process so they can exchange necessary information to enable them defend their interests, both national and regional, in a co-ordinated manner. Further, the document points out that this networking platform could also include the possibilities of African States hiring consultancy firms together for the desktop studies and co-operatively hiring of vessel for data collection, which will enable them negotiate more favourable costs and conditions. It also mentions the possibility of regional pooling of national expertise.⁶²

It is not clear why the draft strategy document was not prepared much earlier than 2008 since the deadline for a number of African broad shelf States was May 2009. This is more so, since as far back as 2001 the IOC had instructed its Executive Secretary to assist Africa States in developing their capacity with regard to the

⁵⁹ Grid-Arendal 2005 Annual Report, at 10

⁶⁰ The IOC was established in 1960 as a body with functional autonomy within the United Nations Educational, Scientific and Cultural Organisation (UNESCO), amongst other things, to promote international co-operation and co-ordinate programmes in capacity building. See Arts. 1 and 2 of the Statutes of IOC, <http://unesdoc.unesco.org/images/0012/001243/124367m.pdf>

⁶¹ Intergovernmental Oceanographic Commission (of UNESCO), Draft Strategy on Capacity-Development for Delineation of the Outer Limits of the Continental Shelves of African Coastal State, IOC/INF-1251 of 20 June 2008.

⁶² Id at 5.

implementation of Article 76.⁶³ Nonetheless, the draft Strategy document is a good initiative. With the 2008 SPLOS decision which gives a respite it is hoped that the Strategy document would be effectively implemented to enable broad shelf African States that have submitted preliminary information to make actual submissions sooner rather than later!

Commonwealth

The Commonwealth through its Special Advisory Services Division also provides legal advice and technical assistance to its broad-shelf developing member States to enable them make submissions to the CLCS. A number of broad-shelf African States have received legal advice and technical assistance from the Commonwealth, such as Kenya, Mozambique, Mauritius and Seychelles.⁶⁴

Bilateral Help from Friendly States

Various United Nations General Assembly resolutions encourage member States to provide bilateral assistance to developing States, including coastal African States, which have difficulties in making submissions to the CLCS.⁶⁵ There is example of such bilateral assistance in Africa in the case of Namibia, which had experts from the Brazilian Navy to help in its preparations.⁶⁶ Perhaps more Africa States would need to explore this possibility of obtaining assistance from other more technologically able friendly States both without and within Africa.

Finance

The process of preparing the claims for the extended CS is no doubt an expensive process. For instance, the South African government is reported to have approved in 2005 an initial sum of R23 –million (about 3,041,591.70 USD), from its Central

⁶³ Twenty-first Session of the Assembly, Paris 3-13 July 2001. See also Twenty-second Session, Paris 24 June -2 July 2004 and Twenty-fourth Session, Paris 19-28 June 2007. See http://www.ioc-unesco.org/index.php?option=com_oe&task=viewDoclistRecord&doclistID=42

⁶⁴ <http://www.thecommonwealth.org/news/166918/250707solomonislands.htm> and http://www.thecommonwealth.org/news/181475/110708continental_shelf.htm

⁶⁵ For e.g. Para. 22 of General Assembly Resolution 58/240 of 23 December 2003.

⁶⁶ See “Progress Report on the Delineation of Namibia’s Continental Shelf Project and request for Approval to enter into Discussions and an Agreement on Phase Three of the Project with the Brazilian Navy,” Namibian Cabinet Briefing of 16 May 2007, <http://www.theshebeen.org/press-releases/4931-namibia-cabinet-briefing-16-may-2007-a.html>

Energy Fund to finance the project.⁶⁷ This expenditure is not affordable by all broad-shelf African States.

Trust Fund

The United Nations General Assembly, recognising this constraint in relation to developing States, established a Trust Fund for facilitating the preparation of submissions to the CLCS by developing States, especially the least developed countries (LDCs) and Small Island developing states (SIDs).⁶⁸ The Trust Fund which is administered by DOALOS provides funding upon request for training of manpower; desktop studies or other initial assessment of the nature of CS and its limits; working out plans for acquisition of necessary additional data and mapping projects and preparation of final submission documents, as well as advisory/consultancy assistance in respect of the above. Each request for financial assistance through the Fund is considered by the DOALOS acting through an independent panel of experts.⁶⁹ Initially, the financial assistance was provided by way of reimbursements to the applicant government for expenditure incurred; however, recently, while reimbursement remains an option, the Fund is able to provide assistance by way of an outright grant.⁷⁰ Some broad margin African States have at one time or the other received financial assistance from the Trust Fund to attend training courses.⁷¹

⁶⁷ <http://www.southafrica.info/about/geography/maritime-claims-200605.htm> The executive arm of the Nigerian government, on its part, has proposed to the Federal legislative arm in its 2008 budget the sum of 100,000,000 Naira (about 863,733 USD) as the amount to be expended on phase III of its Extended Continental Shelf Project. <http://www.fmf.gov.ng/Budget2008Infor/PRESIDENCY.pdf>

⁶⁸ See SPLOS/59 recommending the setting up of a Trust Fund and General Assembly Resolution 55/7 of 30 October 2000 establishing the Fund as amended by Resolution 58/240 of 23 December 2003.

Under the UN office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States list, thirty-four African States are listed as Least Developed Countries (LDCs), six of which are also listed as Small Island Developing States (SIDs). The African LDCs are as follows: Angola, Benin, Burkina Faso, Burundi, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea Bissau, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Sudan, Togo, Uganda, United Republic of Tanzania and Zambia. Those that also listed as SIDs are Cape Verde, Comoros, Guinea-Bissau, Mauritius, Sao Tome and Principe and Seychelles. See <http://www.un.org/special-rep/ohrlls/ldc/list.htm>

⁶⁹ For details of the Terms of reference, guidelines and rules of the Trust Fund see Annex II of Resolution 55/7 as amended by Resolution 58/240 and Note Verbale from DOALOS dated 12 November 2007, http://www.un.org/Depts/los/clcs_new/trustfund76noteverbale2007.pdf

⁷⁰ See Ibid, DOALOS Note Verbale.

⁷¹ Paras. 270 and 271 of A/62/66/Add.1 of 31 August 2007

Financial assistance from friendly States

Again, based on various UN General Assembly resolutions that encourage bilateral assistance to developing States, including coastal African States,⁷² States struggling financially may seek financial assistance from friendly States. The South African government is reported to have expressed its willingness to help poorer African States to process their claims; this presumably would include financial assistance.⁷³ It certainly would be helpful for richer States, including African States, to provide financial assistance, in the spirit of African solidarity, to the poorer ones to enable them process their claims to the extended CS.⁷⁴

Conclusion

There are a number of African coastal States with the potential to claim an extended CS. However, some of these States are struggling to meet their obligation of making submissions to the CLCS under Article 76 of LOSC due to a lack of technical expertise and finance. So far, while a handful of African States have been able to make actual submissions, a number of these States have only been able to make preliminary information available to the Secretary-General as required by SPLOS/183. Although, there already exist avenues for assistance for these African States to help them comply with their Article 76 obligation there is still room for the more to be done. In the view of this writer, there is a need for a change of perspective in respect of the provision of assistance. Assistance should be provided not just to help African broad shelf States deal with *'their problem,'* but it should also be provided because of the *'common problem'* of the need to clearly delineate the Area,⁷⁵ the Common Heritage of Mankind, a maritime space that the international community as a whole has a common interest in.⁷⁶ Further, there needs to be more initiatives that would promote capacity building in African broad shelf States, especially with regard

⁷²For e.g. Para. 22 of GA Resolutions 58/240 of 23 December 2003.

⁷³<http://www.southafrica.info/about/geography/maritime-claims-200605>

⁷⁴This is already the case in respect of States outside Africa. For instance, Norway has provided financial assistance to several African States, for e.g. Gambia, Sao Tome and Principe and Somalia.

⁷⁵ Art.1 (1) of the LOSC defines 'the Area' as "the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction." The definition of the Area in itself incorporates the idea of the outer limit of the continental shelf since the area beyond the limits of national jurisdiction will only be known if the outer limit of the continental shelf is identified. According to Judge Shigeru Oda in the Case concerning the Continental Shelf (Libya/Malta) ICJ Rep.1985, p.13 at p.154 para.55, "...the concept of natural prolongation for the continental shelf was suggested with a view to defining the International Sea-bed area."

⁷⁶ Art.136 of the LOSC states that: "The Area and its resources are the common heritage of mankind."

to infrastructure development, so they would acquire the requisite expertise to prepare all aspects of the submissions on their own.

In addition, there is need for the African Union (AU) to go beyond just appealing for help from other agencies. With examples of African States that have made actual submissions, there a need for the AU to be more proactive and to put together a cooperative forum where African States that have already made submissions can be their 'brother's keepers' by providing assistance to other African States that are struggling to do so.

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Appendix I

Country Information – Africa

(This Table is an excerpt from the presenter’s forthcoming book titled “Africa and the Deep Seabed Regime: International Law and Politics of the Common Heritage of Mankind.” The information is as at 25 August 2010)

Country	Legislation on baselines/ Type	Deposit under Art.16 (2) Y/N.	Legislative Claims of outer limits of C.S.	Claims of EEZ.	Submissions to CLCS/Date
1.Algeria*	Straight baselines(d) (Arts 1-2 of Decree No.84-181 of 4 August 1984)	N	N/A	N/A	N
2. Angola*	Low-water line and straight baselines (Arts.2-3 of Law No. 21/92 of 28 August 1992)	N	N/A	Art. 7 of Decree-Law No. 47,771 of 27 June 1967	P.I
3. Republic of Benin*	Low-water mark and with respect to estuaries from the first obstacle to maritime navigation as defined by maritime regulations in force. (Art.1 of Decree No. 76- 92,1976)	N	200 N.M. (Decree No. 76-92 of April 1976)	Decree No. 76- 92	P.I
4.Cameroon*	Low-water mark and for gulfs, bays and roadsteads decrees to be made fixing the lines. (Art.1 of Decree No.71/DF/416 of 26 August 1971 and Art.5 of Act No. 74/16 of 5 December 1974)	N	CM/200(Legislation N/A) ⁷⁷	N/A	P.I
5.Cape Verde*	Straight baselines(d) (Art.24 of Law No.60/IV/92 of 21 December 1992)	N	200 N.M. (Art.17 of Law No.60/IV/92 of 21 December 1992)	Art.12 of Law No. 60/IV/92 of 21 December 1992	P.I

⁷⁷ See Antunes, N.S.M., “The Pending Maritime Delimitation in Cameroon v. Nigeria Case: A Piece in the Jigsaw Puzzle of the Gulf of Guinea”, (2000) 15 *IJMCL*,p.163 at 171

6. Comoros*	Low-water mark and straight baselines(d) (Art.3 of Law No.82-005 of 6 May 1982 and Arts.2-3 of Ordinance No. 049/77 of 20 December 1997)	N	N/A	Art. 6 of Law No. 82-005 of 6 May 1982	P.I
7. Congo*	Low-water line (Art.2 of Ordinance No.049/77 of 20 December, amending Article 2 of Ordinance 26/71 of 18 October 1971)	N	N/A	Art. 2 of Act proclaiming an EEZ of 4 November 1992	P.I
8.Cote D' Ivoire*	Lowest water mark and straight baselines (Art.1 of Law No.77-926 of 17 November 1977)	N	200 N.M.(Legislation N/A) ⁷⁸	Art.2 of Law No. 77-926 of 17 November 1977	Y – S (8 May 2009)
9.Democratic Republic of Congo*	Low water line and straight baselines(Art.2 of Law No.09/002 of 7 May 2009)	N	350 N.M from Baselines/100N.M from 2,500 metre isobath (Art.8 of Law No.09/002)	Art.7 of Law No.09/002 and Act proclaiming an EEZ along the Atlantic Coast, 1992	P.I
10. Djibouti*	Low-water mark and straight baselines(d) (Art. 4 of Law No.52/AN/78 1978 and Arts. 1 and 2 of Decree No. 85-048 PR/PM of 5 May 1985)	N	N/A	Art. 12 of Law No. 52/AN/78	N
11. Egypt*	Low water line and straight baselines(d) (Art.6 of Decree concerning Territorial Waters of Egypt 15 January 1951, as amended by Presidential Decree of 17 February 1958 and Arts. 1-3 of Decree of President No.27(1990))	N	200 metres or depth of exploitability. (Presidential Decision No.1051 of 1958 concerning the Continental Shelf)	Declaration accompanying Law of the Sea Convention ratification	N
12..Equatorial Guinea*	Low water line and straight baselines(d) (Art.3 of Act No.15/1984 of 12 November 1984 and Art.1 of Act No.1/1999 of 6 March 1999)	Y	N/A	Art. 10 of Act No. 15/1984 of 12 November 1984.	P.I

⁷⁸ See Nationmaster.com2003,<http://www.nationmaster.com/country/IV/Geography>

13. Eritrea	Extremity of sea-board at maximum annual high tide of Eritrea's continental coast(Maritime Proclamation No.137 of 1953 and Proclamation 7-Transitional Maritime Code of Eritrea, 15 September 1991	N	N/A	N/A	N
14.Gabon*	Low-water line and straight baselines(d) (Art.2 of Act No.9/84 of 1984 and Arts 1-5 of Decree 002066/PR/MHCUCDM of 4 December 1992)	Y	N/A	Art.2 of Act No. 9/84	P.I
15. Gambia*	Low-water mark (S.2 of Territorial Sea and Contiguous Zone Act, 1968 as amended in 1969)	N	Non-Specific. (Continental Shelf Act No. 25 of June 1965 as amended by Continental Shelf Act(Revised) of July 1966	N/A	P.I
16. Ghana*	Low-water line (S.1 of Maritime Zones(Delimitation)Law 1986)	N	200 N.M. (S.6(1) of Maritime Zones(Delimitation) Law 1986)	S. 5 of the Maritime Zones (Delimitation) Law, 1986.	Y-S(28 April 2009)
17. Guinea*	Low-water line (Arts.1 and 4 of Decree No.336/PRG of 30 July 1980)	N	N/A	Arts. 2-4 of Decree No. 336/PRG of 30 July 1980	P.I
18.Guinea-Bissau*	Straight baselines (Art.1 of Acts No.2/85 and Art.2 of Act No.3/85 both of 17 May,1985)	N	N/A	Art. 3 of Act No. 3/85 of 17 May 1985	P.I
19. Kenya*	Low water lines/straight baselines and low tide elevations (S.2 of the Territorial Waters Act of 16 May 1972 as revised in 1977/S.1 of Presidential	Y	200 metres or depth of exploitability(Legislation N/A) ⁷⁹	Presidential Proclamation of 9 June 2005 and S.4 of the Maritime Zones Act 1989)	Y – S (6 May 2009)

⁷⁹ See Nationmaster.com2003, Ibid.

	Proclamation of 28 February 1979 and S.3 of the Maritime Zones Act 1989)				
20. Liberia	Low water line(S.3 of the Act to Establish and Delimit the Territorial Sea and Contiguous Zone 1968)	N	200 metres or depth of exploitability.(Act to Establish Continental Shelf 1969)	N/A	N
21. Libya	Straight Baselines(General People's Committee Decision No.104 of AD 2005)	N	N/A	General People's Committee Decision N.260 of AD 2009	N
22. Madagascar*	Low-water mark and straight baselines (Arts.2 –3 of Decree No.63-131 of 27 February 1963 and Art.8 of Ordinance No.85-013 of 16 September 1985 as amended and ratified by Law No.85-013 of 11 December 1985)	Y	200 N.M. or by delimitation agreement or 100 N.M. from the 2,500-metre isobath. (Art.7 of Ordinance No.85-013 of 16 September 1985 as amended and ratified by Law No.85-013 of 11 December 1985)	Art.5 of Ordinance No. 85-013 of 16 September 1985 as amended and ratified by Law No. 85-013 of 11 December 1985)	N
23. Mauritania*	Low-water line and straight baseline (Art.1 of Ordinance 88-120 of 31 August 1988)	N	C.M./ 200. (Art.4 of Ordinance 88-120 of 31 August 1988)	Art.7 of Ordinance 88-120 of 31 August 1988	P.I
25.Mauritius*	Straight baseline (Maritime Zones Act 2005)	Y	C.M./ 200. (Maritime Zones Act 2005)	Maritime Zones (Exclusive Economic Zones) Regulations 1984 and Maritime Zones Act 2005.	Y S(Joint Submission with Seychelles in respect of Mascarene Plateau on 1 December 2008 and sole submission in respect of Rodrigues Island on 6 May 2009) P.I
26. Morocco*	Low-water line/straight baselines (Art.1 of Act No.1.73.211 of 2 March 1973 and Arts.1-2 of Decree No.2.75.311 of 11 Rajab 1395(21 July,1975)	N	200metres or depth of exploitability. (Law No. 1.58.277 of July 1958)	Act No. 1-81 of 18 December 1980 promulgated by Dahir No. 1-81-179 of 8 April 1981.	N
27.	Low-water line/straight	N	CM/200	Art.2 of Decree	Y – S(7 July 2010)

Mozambique*	baselines (Art.1 of Decree No.47,771 of 27 June 1967 and Art. 1 of Decree Law No. 31/76 of 19 August 1976)		(Law No. 4/96 of April 1996)	Law No. 31/76 of 19 August 1976 and Law No. 4/96	
28.Namibia*	Low-water line and any other rules recognised by LOSC 82 or any other convention binding on Namibia or any other international rules. (S.2 of Territorial Sea and EEZ Act No.3 1990 as amended in 1991)	N	As defined in LOSC 82 or subsequent international convention binding on Namibia. (S.6(1) of the Territorial Sea and Exclusive Economic Zone Act No.3 of 30 June 1990)	Art.4 of Act No.3 of 30 June 1990	Y – S(12 May 2009)
29. Nigeria*	Low-water mark (S.1(1) of the Territorial Waters Act 1967 as amended in 1971 and 1998)	N	200 metres or depth of exploitability. (S.14 (1) of the Petroleum Act, Cap.350 Laws of the Federation of Nigeria 1990)	EEZ Act No. 28 of 5 October 1978.	Y –S(7 May 2009)
30. Sao Tome and Principe*	Straight baselines/archipelagic baselines (Art.2 of Law No.1/98 of 1998)	Y	N/A	Arts. 4-6 of Law No. 1/98 of 1998	P.I
31. Senegal*	Low-water line/straight baselines (Art.1 of Act No.85-14 of 25 February 1985 and Arts.1-2 of Decree No.90-670 of 18 June 1990)	N	C.M./ 200. (Art.6 of Act No.85-14 of 25 February 1985)	Law 87-27 of August 1987.	P.I
32. Seychelles*	Low-water line/straight baselines (S.2 of Maritime Zones Act No.15 1977; S.2,3 and 5 of Maritime Zones Act No.2 1999 as amended by Act No.5 of 2009; Maritime Zones(Baselines) Order 2008 and Maritime Zones(Baselines) (Amendment) Regulations 2009)	Y	C.M./ 200/ (S.11 of Maritime Zones Act No.2 of 1999 as amended by Act No.5 of 2009)	SS. 9-14 of Act No. 2 of 1999 as amended by Act No.5 of 2009	Y – S (Joint Submission with Seychelles in respect of Mascarene Plateau on 1 December 2008 and sole submission in respect of Northern Plateau Region) P.I
33. Sierra Leone*	Low-water line (S.2 of the Maritime Zones (Establishment) Decree 1996)	N	200 N.M. (S.11 of the Maritime Zones(Establishment) Decree 1996)	SS. 8-10 of Maritime Zones Decree 1996	P.I
34.Somalia*	Low-water line and straight baseline	N	N/A	N/A	P.I

	(Art.2 of Law No.37 of 10 September 1972)				
35.South Africa*	Low-water line and straight baseline(d) (S.2 of the Maritime Zones Act No.15 of 1994)	N	As defined in Art.76 of LOSC 1982. (S.8 of Maritime Zones Act, No.15 of 1994)	Art.7 of Act No.15 of 1994.	Y- S (Sole Submission in respect of South African mainland territory on 5 May 2009 and joint submission with France in respect of the Crozet Archipelago and the Prince Edward Islands on 6 May 2009)
36. Sudan*	Lowest water line and straight baselines (S.5-6 of Territorial Waters and Continental Shelf Act 1970)	N	200 metres or depth of exploitability. (S.2(k) of Territorial Waters and Continental Shelf Act,1970)	N/A	N
37. Tanzania*	Low-water line (S.5 of the Territorial Sea and EEZ Act 1989)	N	N/A	SS.7-9 of the Territorial Sea and EEZ Act 1989.	P.I
38. Togo*	Low-water line(Art.1 of Ordinance No.24 Delimiting the Territorial Waters and creating a protected Economic Maritime Zone of 16 August 1977)	N	N/A	Ordinance No. 24 of August 1977.	P.I
39. Tunisia*	Low-water mark and straight baseline (Art.1 of Act No.73-49 of 2 August 1973)	Y	N/A	Act No.50/2005 Concerning the EEZ off the Tunisian Coasts	

Key - Y-Yes;N-No; N/A-Not available;N.M.-Nautical Miles; S – Submission to CLCS;P.I – Preliminary Information indicative of the outer limits of the CS beyond 200 N.M, SPLOS/183; * State Party to LOSC⁸⁰

⁸⁰ For more details on when the states became parties to LOSC, see Table 1 in chapter 1 of this Book.