

United Nations  Nations Unies

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REFERENCE:

24 May 2010

Dear Mr. Charles,

This is with reference to your letter dated 24 April 2010 seeking “information on the procedural, administrative and approximate costs and other implications of all the proposals submitted to the Informal Working Group, as reflected in the matrix and as summarised in the Note of the Group dated April 23, 2010.”

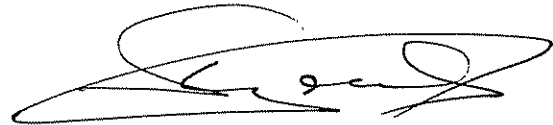
Please find in the attached Annex our observations in relation to issue raised in your letter. As you will note, this Annex refers to the earlier documentation of the Secretariat where the same or similar issues had already been addressed. Notably, the Commission on the Limits of the Continental Shelf has been grappling with several issues concerning its anticipated workload since the fifteenth session of the Meeting of States Parties held in 2005. You may also recall that the Meeting of States Parties at its nineteenth session requested the Secretariat to prepare an update of its Note contained in document SPLOS/157 on the basis of the discussions held during that session and any further information provided by States Parties and observers in due time for the twentieth session. Accordingly, an update has been prepared by the Secretariat to facilitate a comprehensive review by States Parties of the matter and issued as document SPLOS/208. The relevant paragraphs of both SPLOS/157 and SPLOS/208 are included in the Annex to this letter, for ease of reference.

As you will note, our observations also contain references to our earlier letters addressed to you on 20 January and 12 February 2010. These letters provide additional information, including preliminary estimates of financial implications solely with a view to facilitate further informal discussions and consideration of various options by States. In this regard, we also wish to remind you that the Programme Planning and Budget Division of the Office of the Controller has advised us that a statement of programme budget implications would be prepared in accordance with established procedures only when the Meeting of States Parties makes specific recommendations to the General Assembly.

Mr. Eden Charles
Coordinator of the Informal Working Group
Permanent Mission of Trinidad and Tobago to the United Nations
New York, NY

We also take this opportunity to inform you that the document entitled “Questions for the Commission on the Limits of the Continental Shelf” which you transmitted together with your letter dated 24 April 2010, has been forwarded to the Chairperson of the Commission, at your request. As soon as we receive any feedback from the Chairperson, we will advise you accordingly.

Yours sincerely,



Serguei Tarassenko
Director
Division for Ocean Affairs and the Law
of the Sea
Office of Legal Affairs

ANNEX

DOALOS observations in relation to issues raised in the document entitled “*Submission on the Work Load of the Commission on the Limits of the Continental Shelf*,” attached to the letter from the Coordinator of the Informal Working Group, dated 24 April 2010

SYSTEMIC MEASURES

Proposal

- (1) Increase in frequency of the sessions of the Commission from two at present to three or four per year
 - There should three or four sessions per year.
 - The sessions will be of a shorter duration and culminate with one week of plenary each.
 - Flexibility in the meetings of the sub-commissions

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 25-35:

Longer sessions of the Commission, with increased costs to be defrayed by States nominating the members of the Commission

25. At its fourteenth session, several members of the Commission observed that, given the number and volume of projected submissions, two sessions per year of one week of plenary meetings followed by two weeks of subcommission meetings were no longer sufficient to deal with the workload. A thorough examination of submissions by the Commission would require the duration of the plenary of each session to be increased to at least two weeks.

26. At the same session, concern was expressed regarding the process through which members of the Commission are appointed as members of a subcommission. Several members of the Commission indicated that they may not be in a position to participate in the work of a new subcommission they may be appointed to. That was owing to the fact that the travel authorization from their Governments did not include the period to be devoted to the work of that subcommission since the appointment to such subcommission was not known at the time of the travel authorization. In the view of those members, that meant that only members whose travel was authorized and financed for the duration of the full session would be available for appointment to new subcommissions. That would hinder implementation of the provisions of article 5 of annex II to the Convention, according to which the members of a subcommission should be “appointed in a balanced manner taking into account the specific elements of each submission”. That would also hinder implementation of rule 42, subparagraph (c), of the rules of procedure of the Commission

(CLCS/40), according to which "the appointment of members of a subcommission should be done taking into account ... the specific elements of the submission as well as, to the extent possible, the need to ensure a scientific and geographical balance".

27. The financial assistance provided by the trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission may have, to a certain degree, addressed these concerns (see paras. 65-67 below).

28. At its sixteenth session, the Commission noted again the need to further increase the number or duration of sessions convened each year. However, it was underlined that there were constraints on time and funding that made it difficult for members of the Commission, whose participation was financed by their Governments, to spend more time in New York as the States parties had not foreseen such a heavy workload or the financial implications. The Commission decided that the matter would be brought to the attention of the General Assembly and the Meeting of the States Parties (see CLCS/48, para 38).

29. At its eighteenth session, in view of the forthcoming election of its members, the Commission pointed out that the States nominating new members might not be entirely aware of the financial implications, as provided for in article 2, paragraph 5, of annex II to the Convention, according to which the State party which submitted the nomination of a member of the Commission should defray the expenses of that member while in performance of Commission duties (see CLCS/52, para. 55).

30. When addressing the sixteenth Meeting of States Parties, the Chairman highlighted issues related to the workload of the Commission and the funding of participation by its members in its sessions and the meetings of subcommissions. He recalled that the matter had been brought to the attention of the fifteenth Meeting and reiterated that under the current arrangements, the Commission might not be in a position to perform its functions in an efficient and timely manner. He also stated that the Commission had decided to recommend that the sixteenth Meeting of States Parties consider a draft decision (SPLOS/140, annex), which proposed, through a draft resolution for consideration by the General Assembly, that the members of the Commission receive emoluments and expenses while they are performing Commission duties concerning the consideration of submissions made by coastal States on the outer limits of the continental shelf under article 76, and that such emoluments and expenses be defrayed through the regular budget of the United Nations.

31. At its nineteenth session, the Commission decided to reiterate the above proposal, and that the Chairman would reintroduce that proposal in his letter to the President of the seventeenth Meeting of States Parties and include it in his presentation to that Meeting. It also requested the Secretariat to provide the necessary information on the programme budget implications of that decision.

32. The duration of the last five sessions, including both plenary meetings of the Commission and meetings by the subcommissions (without intersessional meetings, which are described in paras. 33-35 below), was as follows:

(a) Fifteenth session: (4-22 April 2005, 1 week of plenary meetings and 2 weeks of meetings of the subcommissions established to examine the submissions made by Australia and Brazil);

(b) Sixteenth session: (29 August-16 September 2005, 1 week of plenary meetings and 2 weeks of meetings of the subcommissions established to examine the submissions made by Australia, Brazil and Ireland);

(c) Seventeenth session: (20 March-21 April 2006, 1 week of plenary meetings and 4 weeks of meetings of the subcommissions established to examine the submissions made by Australia, Brazil and Ireland);

(d) Eighteenth session: (21 August-15 September 2006, 1 week of plenary meetings and 4 weeks of meetings of the subcommissions established to examine the submissions made by Australia, Brazil, Ireland, New Zealand and, jointly, France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland);

(e) Nineteenth session: (5 March-13 April 2007, 2 weeks of plenary meetings and 4 weeks of meetings of the subcommissions established to examine the submissions made by Australia, Brazil, New Zealand, Norway and, jointly, France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland).

More frequent intersessional meetings

33. Following the debates concerning the need to devote more time to the examination of submissions, in 2005, the Commission started to convene intersessional meetings of its subcommissions in the GIS laboratories of the Division. The scheduling of such meetings depends on the programme of work agreed upon by the members of each subcommission and on the availability of their members during the intersessional period.

34. As indicated in paragraph 32, the subcommissions established to examine the submissions made by Australia, Brazil, Ireland, New Zealand, Norway and, jointly, by France, Ireland, Spain and the United Kingdom, have held their meetings during, or in conjunction with, the regular sessions of the Commission. In addition, intersessional meetings, which required separate travel to New York, were also held, as indicated below:

(a) 27 June-1 July 2005, subcommission established to consider the submission made by Australia;

(b) 22 August-26 August 2005, subcommission established to consider the submission made by Brazil;

(c) 23-27 January 2006, subcommission established to consider the submission made by Ireland;

(d) 13-17 November 2006, subcommission established to consider the submission made by New Zealand;

(e) 22 January-2 February 2007, subcommission established to consider the joint submission made by France, Ireland, Spain and the United Kingdom.

35. It must be noted that since such intersessional meetings do not occur during or in conjunction with the regular sessions of the Commissions, they have implications from both the time and financial points of view for members of the subcommissions and the Governments that defray the cost of participation of the members of the Commission, depleting the trust fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission.

The matter was also addressed in document SPLOS/208, paragraphs 10, 34-37, and 70-78:

Duration and frequency of sessions of the Commission and intersessional meetings of its subcommissions

10. At its fourteenth session, held in 2004, the Commission observed that, given the number and volume of projected submissions, two sessions per year, consisting of one week of plenary meetings followed by two weeks of subcommission work, would not suffice to deal with its workload. Therefore, it decided to increase the duration of its sessions. Whereas in 2004 the Commission had met for a total of four weeks, which included two weeks of plenary meetings and two weeks of meetings of subcommissions, in 2009 the Commission tripled the amount of time it was in session, reaching a total of 13 weeks, which included four weeks of plenary meetings, six weeks of meetings of subcommissions and three weeks of intersessional meetings.¹ The Commission started convening intersessional meetings of its subcommissions in the Geographic Information System (GIS) laboratories of the Division in 2005.² The scheduling of intersessional

¹ The duration of the fifteenth through nineteenth sessions was detailed in SPLOS/157, para. 32. The duration of the last five sessions, including both plenary meetings of the Commission and meetings by the subcommissions was as follows:

(a) Twentieth session: 27 August-14 September 2007, 1 full week of plenary meetings and 2 weeks of meetings of the subcommissions;

(b) Twenty-first session: 17 March-18 April 2008, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(c) Twenty-second session: 11 August-12 September 2008, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(d) Twenty-third session: 2 March-9 April 2009, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions;

(e) Twenty-fourth session: 10 August-11 September 2009, 2 weeks of plenary meetings and 3 weeks of meetings of the subcommissions.

² The duration of the resumed sessions, held from 2005 to 2007 to allow subcommissions to meet intersessionally, was detailed in SPLOS/157, para. 34. In 2008 and 2009 subcommissions met during the following intersessional

meetings depends on the programme of work agreed upon by the members of each subcommission and on the availability of their members and the delegations of the submitting coastal States concerned. In general, such intersessional meetings have resulted in a more efficient use of the time of the members of the Commission and of the geographic information system laboratories.

...

34. The extension of the time devoted by the Commission for the consideration of submissions, through longer and/or more frequent sessions and intersessional meetings of its subcommissions, has been discussed repeatedly at the Meetings of States Parties, which also acknowledged, however, that it was unrealistic, under the current circumstances, to expect members to work full-time for the Commission, or to go substantially beyond the current level of work, owing to their other commitments in their respective countries. In addition, delegations recognized that extending the duration of the sessions of the Commission would have financial implications for the nominating States parties that defray the expenses of the members of the Commission and for the Trust Fund to enable the participation of the members of the Commission from developing countries in the work of the Commission.³

35. Any decision to have longer and/or more frequent sessions of the Commission or meetings of its subcommissions would have financial implications.

36. In this connection, it should be noted that additional staffing requirements and related costs will necessarily augment with the increase in length of the meetings of the subcommissions and in the number of sessions of the Commission. The other work of the Division would also be affected by an increase in servicing longer and more numerous meetings of subcommissions and sessions of the Commission. In addition, the prolonged presence of members of subcommissions at United Nations Headquarters will most likely entail an increase in costs related to office space.

periods:

- (a) 21-25 January 2008;
- (b) 28 January-1 February 2008;
- (c) 1-12 December 2008;
- (d) 3-7 August 2009;
- (e) 2-6 November 2009;
- (f) 7-11 December 2009.

Such intersessional meetings do not occur during or in conjunction with the regular sessions of the Commission. Therefore, they require the members of the subcommissions to spend additional time in New York and, consequently, have financial implications for both these members and for their Governments that defray the cost of their participation. Often such meetings cannot take place without significant additional funds from the Trust Fund for the purpose of defraying the cost of participation of the members of the Commission from developing States in the meetings of the Commission.

³ See, for example, SPL.OS/164, paras. 60-62, and SPL.OS/203, para. 85.

37. Whereas additional meetings of subcommissions during regular sessions or intersessionally would depend mainly on the availability of members and delegations concerned, the increase of length or frequency of plenaries would have financial implications for the Secretariat.

70. The measures outlined in Part V above are wide-ranging, cover all aspects of the work of the Commission and of its secretariat, and are not mutually exclusive. The Secretariat, on the basis of its experience and practice, believes that a holistic approach to addressing the issue of the increased workload of the Commission may require resorting to a combination of measures. Depending on the different procedural and financial requirements, there may be short-, medium- and long-term measures.

Short-term measures

71. A moderate increase in the number of weeks of subcommission work could be implemented as early as from the twenty-sixth session of the Commission (2-27 August 2010). The additional weeks of subcommission work, however, would be subject to the availability of the members of the Commission as well as the capacity of the States that nominated them to defray the increased costs of their participation.⁴

72. The increase in the number of weeks of subcommission work could result in the addition of weeks to the biannual sessions of the Commission by having either more frequent sessions of the Commission or more intersessional meetings of subcommissions. The first option would seem preferable as it would minimize the costs that would result from additional travel for the members of the Commission.

Medium-term measures

73. From a medium-term perspective, a further increase in the number of meetings of subcommissions, beyond the current working arrangements and above-mentioned short-term increase, could also be envisaged. This would inevitably lead to an extension of the plenary meetings of the Commission, involving full conference servicing support, including interpretation facilities, in particular to adopt an increased number of recommendations, which subcommissions would be able to prepare by virtue of the longer time at their disposal, and to hear the presentations by coastal States. By convening additional plenary meetings to deal with more work emanating from subcommissions, the Commission would speed up its consideration of submissions and issuance of recommendations. As far as the servicing provided by the Secretariat is concerned, additional plenary meetings in conjunction with a substantial increase in meetings of

⁴ See para. 34 above

subcommissions beyond what is envisaged under short-term arrangements would require additional human and other resources.

Long-term measures

74. The possibility for the members of the Commission to work on a full-time basis at United Nations Headquarters would seem to be the most effective and efficient measure. This measure could be initially adopted for a limited period of time, subject to periodic reviews by the Meeting of States Parties, possibly starting with the new composition of the Commission after the elections in June 2012.

75. In this connection, it is recalled that article 2, paragraph 5, of annex II to the Convention establishes that “the State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties”.

76. As a way to address the increased financial implications for the nominating States if the Commission were to operate on a full-time basis, the Meeting of States Parties could consider amending the terms of reference of the Trust Fund.

77. However, as trust funds are based on voluntary contributions, they could not provide the Commission with the financial stability that the Commission would require to perform its functions. The Meeting of States Parties could therefore consider the possibility of resorting to the method of assessed contributions used with respect to the International Tribunal for the Law of the Sea and the International Seabed Authority. In addition to the advantage of a sound financial basis for the functioning of the Commission, this option would offer equal conditions of service for all its members.

78. The establishment of a Commission working on a full-time basis at United Nations Headquarters would require a review of the arrangements for the servicing of the Commission by the Secretariat.

The letter dated 20 January 2010 from the Director, addressed to the Coordinator of the Informal Working Group also provides additional relevant information.

Proposal

- (2) Increase in the number of sub-commissions from three at present to four or five sub-commissions running concurrently.
 - Reducing the number of Commissioners per sub-commission
 - Flexibly structured sub-commissions

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 14-15 and 51-52:

14. At its eighteenth session, the Commission adopted a decision (see CLCS/52, para. 38), which read as follows:

In view of the increasing number of submissions and in order to organize its work in the most efficient way, the Commission decided that the following rules will apply to the submissions received after the end of the eighteenth session of the Commission:

1. Only three subcommissions shall function simultaneously while considering submissions.
2. The submissions shall be queued in the order they are received.
3. The submission next in line shall be taken for consideration by a subcommission only after one of the three working subcommissions presents its recommendations to the Commission.

15. That decision was temporary and partial in nature, and is subject to review, depending on the availability of additional funding and related resources that would permit longer and more frequent sessions (see CLCS/52, para. 39).

Reducing the number of members per subcommission in order to allow the establishment of more subcommissions

51. Article 5 of annex II to the Convention stipulates that "Unless the Commission decides otherwise, the Commission shall function by way of subcommissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State". Rule 42 of the rules of procedure of the Commission (CLCS/40) provides that:

1. If, in accordance with article 5 of annex II to the Convention, the Commission decides to establish a subcommission for the consideration of a submission, it shall:

...

- (c) Through informal consultations among the members of the Commission, nominate candidates for the subcommission ... taking into account ... the specific elements of the submission as well as, to the extent possible, the need to ensure a scientific and geographical balance; and

- (d) Appoint from among the nominated candidates seven members of the subcommission.

52. When establishing the subcommissions, the Commission has consistently proceeded in accordance with those provisions, appointing from among nominated candidates seven members of each subcommission, taking into account the specific elements of the submission as well as the need to ensure, to the extent possible, a

balanced scientific and geographical representation (see, inter alia, CLCS/32, para 16, and CLCS/42, para. 19). It is noted that, when necessary, current subcommissions have sought the advice of other members of the Commission who specialize in areas of expertise not already represented within the subcommission. The reduction of the number of members in each subcommission may not be in conformity with the provisions of the Convention and would also go against the need to ensure a balanced scientific composition of those bodies, as evidenced by the trend described above.

This matter was also addressed in document SPLOS/208, paragraphs 11-13 and 45-48:

Subcommissions

11. According to paragraphs 4 bis and 4 ter of rule 51 of the rules of procedure of the Commission,⁵ “[u]nless the Commission decides otherwise, only three subcommissions shall function simultaneously while considering submissions” and “[t]he submissions shall be queued in the order they are received. The submission next in line shall be taken for consideration by a subcommission only after one of the three working subcommissions presents its recommendations to the Commission”.

12. The above-mentioned provisions were adopted in view of the difficulties experienced by the Commission in examining five submissions simultaneously during the eighteenth session,⁶ since the active subcommissions outnumbered the number of GIS laboratories and could not be properly serviced by the staff available in the Division. In addition, the fact that several members of the Commission were members of two or more subcommissions posed practical difficulties in reaching the quorum to take decisions in certain subcommissions while other subcommissions were simultaneously in session. However, when circumstances so allowed, in order to ensure expediency and efficiency in the light of the large number of submissions, the Commission decided to establish subcommissions additional to the three already actively examining respective submissions.⁷

13. The establishment of more than three subcommissions has proven to be feasible in practice, provided that work is scheduled so as to avoid more than three subcommissions meeting simultaneously.

45. According to article 5 of annex II to the Convention, “[u]nless the Commission decides otherwise, the Commission shall function by way of subcommissions composed of seven members, appointed in a

⁵ CLCS/40/Rev.1.

⁶ See CLCS/52, para. 38.

⁷ See CLCS/62, para. 44, and CLCS/64, para. 20.

balanced manner taking into account the specific elements of each submission by a coastal State”.

46. As observed in paragraph 52 of SPLOS/157,

When establishing the subcommissions, the Commission has consistently proceeded in accordance with those provisions, appointing from among nominated candidates seven members of each subcommission, taking into account the specific elements of the submission as well as the need to ensure, to the extent possible, a balanced scientific and geographical representation.⁸ It is noted that, when necessary, current subcommissions have sought the advice of other members of the Commission who specialize in areas of expertise not already represented within the subcommission.

This practice has not changed and several subcommissions have appointed a technical expert, also a member of the Commission, to provide assistance in his area of expertise.

47. The reduction of the number of members per subcommission should be considered in the light of the requirement of a balanced, scientific composition, as evidenced by the trend described above. It may also be recalled that, in the past, delegations expressed concern that this option would make it more difficult to establish subcommissions having geographical balance in their membership.⁹

48. The implementation of this measure would depend on an interpretation of article 5 of annex II to the Convention and would have financial implications.

Proposal

- (3) Forward Planning by the Commission/Sub-Commissions
- Forecasting for indicative purposes the number of sessions required per submissions and setting deadlines for completing consideration.

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 48-50:

Giving consideration to the sustainable level of scrutiny the Commission can give to each submission

48. The members of the Commission have repeatedly pointed out that each submission deserves a thorough examination in view of its responsibilities under article 76 of the United Nations Convention on the Law of the Sea and its annex II. They have also emphasized that the time spent examining a submission is proportional to its complexity and the volume of data contained therein.

⁸ See, inter alia, CLCS/32, para 16, and CLCS/42, para 19.

⁹ See SPLOS/164, para 66

49. Each submission to the Commission contains data and information, including hydrographic, bathymetric, geophysical and geodesic data, the volume of which can cover from several hundreds to several thousands of pages. Article 76 of the Convention and the Scientific and Technical Guidelines require that examinations follow several steps.

50. The Commission adopted certain amendments to its rules of procedure, in response to statements made by several delegations at the fifteenth Meeting of States Parties (CLCS/50, paras. 31-45). When adopting them, the Commission recognized that those amendments, which envisage increased interaction between the Commission, the relevant subcommission and submitting States, may affect the time required for the consideration of submissions (see CLCS/50, para. 45).

This matter was also addressed in document SPLOS/208, paragraphs 59-60:

59. Regarding forward planning, the Secretariat provides administrative support to the Commission and its Chairman for the purpose of scheduling the examination of submissions. With each additional submission examined and recommendation issued, experience is gained which should allow for improved forward planning. However, most critical issues in this regard would be decisions regarding the increase in frequency of meetings of subcommissions and/or longer sessions of the Commission and/or the increase in the number of sessions of the Commission.

60. The measures described above would not have any direct financial implications on the members of the Commission or on the Secretariat. Their adoption would depend on internal decisions by the Commission about its working methods. It should be noted that the planning of interactions between subcommissions and coastal States depends on the specificities of each submission and may not be planned in a standardized manner.

Proposal

- (4) Each Sub-Commission could be tasked with a certain number of submissions for the next two years (*or more*)
- Forward planning of the Commissioners who will form part of the next batch of Sub-commissions so that in the eventuality that one Sub-commission becomes idle due to lack of information from one submitting State, they can start work on the next country waiting in line. This scenario can be contemplated only after close consultation with the submitting States
 - Incoming “younger” submissions might undergo a “pre-review” while other “older” submissions are examined through regular process

DOALOS observations

As mentioned above, forward planning, was addressed in document SPLOS/157, paragraphs 48-50:

Giving consideration to the sustainable level of scrutiny the Commission can give to each submission

48. The members of the Commission have repeatedly pointed out that each submission deserves a thorough examination in view of its responsibilities under article 76 of the United Nations Convention on the Law of the Sea and its annex II. They have also emphasized that the time spent examining a submission is proportional to its complexity and the volume of data contained therein.

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60. The measures described above would not have any direct financial implications on the members of the Commission or on the Secretariat. Their adoption would depend on internal decisions by the Commission about its working methods. It should be noted that the planning of interactions between subcommissions and coastal States depends on the specificities of each submission and may not be planned in a standardized manner.

In this context, it should be further noted that the composition of each Subcommission is determined taking into account article 5 of Annex II to the convention and rule 42 of the rules of procedure of the Commission (CLCS/40/Rev.1):

ANNEX II. COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be a member of the sub-commission dealing with that submission but has the right to participate as a member in the proceedings of the Commission concerning the said submission. The coastal State which has made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

Rule 42

Subcommissions

1. If, in accordance with article 5 of Annex II to the Convention, the Commission decides to establish a subcommission for the consideration of a submission, it shall:

- (a) Identify any members of the Commission who are defined as ineligible, in accordance with article 5 of Annex II to the Convention, i.e. nationals of the coastal State making the submission and members who have assisted the coastal State by providing scientific and technical advice with respect to the delineation;
- (b) Identify any members of the Commission who may, for other reasons, be perceived to have a conflict of interest regarding the submission, e.g., members who are nationals of a State which may have a dispute or unresolved border with the coastal State;
- (c) Through informal consultations among the members of the Commission, nominate candidates for the subcommission other than those identified in subparagraph (a), taking into account the factors regarding the members identified in paragraph (b), and the specific elements of the submission as well as, to the extent possible, the need to ensure a scientific and geographical balance; and
- (d) Appoint from among the nominated candidates seven members of the subcommission.

2. The term of a subcommission shall extend from the time of its appointment to the time that the submitting coastal State deposits, in accordance with article 76, paragraph 9, of the Convention, the charts and relevant information, including geodetic data, regarding the outer

limits for that part of the continental shelf for which the submission was originally made.

3. A member of the Commission can be appointed to be a member of more than one subcommission. Members of the Commission identified under subparagraph 1 (a) have the right to participate as members in the proceedings of the Commission concerning the said submission. Such members, by prior consultation and agreement within the subcommission, may be invited to participate in the proceedings of the subcommission on specific issues concerning the said submission without the right to vote.

The provisions above establish criteria aimed at preventing ineligibility or conflict of interest among the members of subcommissions, as well as at ensuring scientific and geographical balance within the subcommissions. An additional challenge to the viability of this proposal is posed by the need to respect the chronological order in which submissions are received. The impossibility of pre-determining when a subcommission would finish the work on a certain submission and become available for another submission would make it very challenging to carry out the forward planning suggested above, also in view of the fact that this measure, as suggested, would depend on the outcome of the suggested close consultations with the submitting States. The application of this complex set of criteria to the specific elements of each submission make it very unlikely that group of seven members of the Commission suitable for examining a subcommission could be equally suitable for the examination of other submissions. The chronological principle would also be incompatible with treating more recent submissions differently from previous submissions.

Proposal

(5) Full time Commission

- The possibility of making the Commission work on a full time basis as from the next election for a determinate period.
- Prior to the next election, political consensus must be reached on this matter.

DOALOS observations

This matter is addressed in document SPLOS/208, paragraphs 40, 74-78:

C. Commission operating on a full-time basis

40. The idea of the Commission operating on a full-time basis at United Nations Headquarters was not fully explored by the Meeting of States Parties. However, during the debates, States found it unrealistic under the existing working arrangements to expect that members would work full-time for the Commission at Headquarters, or go beyond the current level of work, owing to their other professional

commitments in their respective countries.¹⁰ This position was echoed by the Chairman of the Commission.¹¹ The proposal, however, was included in the comments provided by States parties¹² and was echoed during the meetings of the Informal Working Group.¹³

...

Long-term measures

74. The possibility for the members of the Commission to work on a full-time basis at United Nations Headquarters would seem to be the most effective and efficient measure. This measure could be initially adopted for a limited period of time, subject to periodic reviews by the Meeting of States Parties, possibly starting with the new composition of the Commission after the elections in June 2012.

75. In this connection, it is recalled that article 2, paragraph 5, of annex II to the Convention establishes that “the State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties”.

76. As a way to address the increased financial implications for the nominating States if the Commission were to operate on a full-time basis, the Meeting of States Parties could consider amending the terms of reference of the Trust Fund.

77. However, as trust funds are based on voluntary contributions, they could not provide the Commission with the financial stability that the Commission would require to perform its functions. The Meeting of States Parties could therefore consider the possibility of resorting to the method of assessed contributions used with respect to the International Tribunal for the Law of the Sea and the International Seabed Authority. In addition to the advantage of a sound financial basis for the functioning of the Commission, this option would offer equal conditions of service for all its members.

78. The establishment of a Commission working on a full-time basis at United Nations Headquarters would require a review of the arrangements for the servicing of the Commission by the Secretariat.

The letters dated 20 January 2010 and 12 February 2010 from the Director, addressed to the Coordinator of the Informal Working Group provides additional relevant information.

¹⁰ See SPLOS/164, para. 60.

¹¹ See SPLOS/203, para. 91.

¹² See above, para. 3.

¹³ See above, para. 33.

SUPPORT MEASURES

Proposal

- (1) Nominating States should adhere to the provisions of paragraph 5 of article 2 of Annex II of the Convention as far as practicable.

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 28-29:

28. At its sixteenth session, the Commission noted again the need to further increase the number or duration of sessions convened each year. However, it was underlined that there were constraints on time and funding that made it difficult for members of the Commission, whose participation was financed by their Governments, to spend more time in New York as the States parties had not foreseen such a heavy workload or the financial implications. The Commission decided that the matter would be brought to the attention of the General Assembly and the Meeting of the States Parties (see CLCS/48, para. 38).

29. At its eighteenth session, in view of the forthcoming election of its members, the Commission pointed out that the States nominating new members might not be entirely aware of the financial implications, as provided for in article 2, paragraph 5, of annex II to the Convention, according to which the State party which submitted the nomination of a member of the Commission should defray the expenses of that member while in performance of Commission duties (see CLCS/52, para. 55).

This matter was also addressed in document SPLOS/208, paragraphs 41 and 64:

41. The proposal that members intensify their work at home during the intersessional periods, including through remote working and teleconferencing, was included in the comments provided by States parties.¹⁴ Members of the Commission are already engaged in such work. A further increase in the work carried out from home would be subject to the availability of the members of the Commission. In addition, work carried out at home may raise questions concerning the defraying of the attendant costs by the nominating States. Furthermore, it will be recalled that this measure could not apply to the examination of those submissions for which States have invoked the terms of confidentiality under annex II to the rules of procedure. These terms do not allow members of the Commission to examine away from United Nations Headquarters submissions to which they apply.

¹⁴ See above, para. 3.

64. Regarding the financing options referred to in the comments of the Informal Working Group, it is recalled that, at the Meetings of States Parties, a number of delegations had emphasized that the solution proposed by the Commission at that time, namely that the members of the Commission receive emoluments and expenses defrayed through the regular budget of the United Nations, needed to be consistent with the obligations of nominating States under article 2, paragraph 5, of annex II to the Convention.¹⁵ As a matter of fact, the General Assembly repeatedly reiterated, most recently in its resolution 64/71, the duty of nominating States under the Convention, whose experts were serving on the Commission, to defray the expenses of the experts they had nominated while in performance of Commission duties, and called upon those States to do their utmost to ensure the full participation of those experts in the work of the Commission, including the meetings of subcommissions, in accordance with the Convention.

Proposal

- (2) Increased use of inter-sessional periods with the permission of the submitting States
- Need for a secured website to pursue remote work done inter-sessionally
 - Need for special lap tops to enable remote working inter-sessionally
 - Use of video/telephone Conferencing in the context of remote working

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 36-40 and 42-44:

Increasing the amount of work carried out by the members at home during the intersessional period

36. While, in its view, the most productive interaction and work takes place during its sessions and in the meetings of the subcommissions (see CLCS/52 para. 37), the Commission has addressed, on several occasions, the volume of work to be carried out individually by its members during intersessional periods to increase the efficiency of its sessions. It noted that a further increase in the volume of such work might be expected in view of the size, complexity and increasing number of submissions under examination. It noted, however, that such individual work could not replace the examination of submissions carried out collectively by members of a subcommission.

37. At its fifteenth session, the Commission discussed the workload for its members as well as the funding available to them to ensure their participation in the meetings of subcommissions. The members

¹⁵ See SPLOS/148, para. 68, and SPLOS/164, para. 61.

of the Commission noted that the examination of submissions required complicated work during not only the sessions of the subcommissions but also the intersessional periods (see CLCS/44, para. 49).

38. Due to its complexity, the examination of submissions extends for long periods during regular and intersessional periods, thus presenting difficulties for all members of the Commission (see CLCS/44, para. 50, and SPLOS/129, para. 20). Various proposals had been made regarding the issue, including that the members of the Commission might need to devote full-time attention during certain periods to the examination of the submissions (see CLCS/44, para. 51).

39. At its eighteenth session, in view of the election of the members that will be held in June 2007, the Commission pointed out that States making nominations might not be entirely aware of the fact that each member of a subcommission, in addition to participating in the sessions of the Commission and the meetings of the subcommissions, is required, individually, to undertake lengthy intersessional work related to the analysis of the submissions and the preparation of recommendations. Therefore, according to the views of some members of the Commission, the nominating State should adequately support nominees in connection with such individual intersessional work. As in the case of financial support (see para. 29 above), the Commission decided to draw the attention of States to that aspect for their consideration when making nominations (see CLCS/52, para. 55).

40. At its nineteenth session, the members of the Commission also pointed out that the productivity of their intersessional work depends on the availability of software applications comparable to those available in the GIS laboratories of the Division, licences for which may be expensive and beyond the means of individual members. It is noted that two submitting States have made available to members of the Subcommissions examining their submissions software packages necessary to carry out their examinations when away from the GIS laboratories of the Division.

Use of current technologies such as videoconferencing

42. The scientific and technical nature of the work of the Commission requires the use of state-of-the-art technologies and equipment. Details concerning the use of such tools for the examination of submissions is described in further detail below (see paras. 53-64). This section focuses on the utilization by the Commission of modern technologies for carrying out its work during the intersessional period. For this purpose, the Secretariat, in collaboration with relevant departments, has provided a secure online forum for the members of the Commission, enabling them to continue their discussion and to exchange electronic files during the intersessional period.

43. At the sixteenth Meeting of States Parties, the Director of the Division addressed issues related to the use of advanced technology. He pointed out that in view of the volume and confidentiality of data, some of the technological solutions proposed by members at the Meeting might be too expensive and impractical and no substitution for personal interaction and discussion among the members during their meetings in New York. He also pointed out complex issues related to the availability of software, licensing and export regulations (see SPLOS/148, para. 77).

44. Concerning videoconferencing, it should be noted that not all required technology and infrastructures may be available in the countries of the members of the Commission, making full use of such tools unfeasible. Members felt that the use of such tools could jeopardize the confidentiality of the information in submissions and of the meetings of subcommissions.

This matter was also addressed in document SPLOS/208, paragraphs 41-44:

D. Remote working, teleconferencing and interaction and dialogue between the Commission and submitting States

41. The proposal that members intensify their work at home during the intersessional periods, including through remote working and teleconferencing, was included in the comments provided by States parties.¹⁶ Members of the Commission are already engaged in such work. A further increase in the work carried out from home would be subject to the availability of the members of the Commission. In addition, work carried out at home may raise questions concerning the defraying of the attendant costs by the nominating States. Furthermore, it will be recalled that this measure could not apply to the examination of those submissions for which States have invoked the terms of confidentiality under annex II to the rules of procedure. These terms do not allow members of the Commission to examine away from United Nations Headquarters submissions to which they apply.

42. It will be also recalled that the members of the Commission noted that the examination of submissions required complicated work not only during the sessions of the subcommissions but also in the intersessional periods.¹⁷ However, the most productive interaction and work takes place during sessions and in the meetings of subcommissions.¹⁸

43. At the nineteenth session, the members of the Commission observed that the productivity of their intersessional work depended on the availability of software applications comparable to those available in the GIS laboratories of the Division as well as on licences that might be expensive and beyond the means of individual members.

¹⁶ See above, para. 3.

¹⁷ See CLCS/44, para. 49.

¹⁸ See CLCS/52, para. 37.

Recently, further to the upgrade of the facilities of the Division, including the acquisition of additional software packages and licences required by the Commission to analyse submissions,¹⁹ software licences have also been made available to Commission members for use during intersessional work.²⁰

44. Teleconferencing, where available, could be adopted as a measure to reduce the travel costs of delegations to meetings with the subcommissions and to ensure a more efficient dialogue between them.

The letter dated 20 January from the Director of the Division, addressed to the Coordinator of the Informal Working Group provides additional relevant information.

Proposal

- (3) Achieving consistency in technical issues and procedural matters by and between the Sub-commissions
- Utmost care must be taken to ensure that the Commission's work continues to be strictly scientific, neutral and transparent

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 45-47:

Adoption of internal procedural measures to ensure a more efficient conduct of the Commission's work

45. The Commission keeps its rules of procedure and practice under constant review in order to adequately address concerns by States and to include the lessons learned in the course of its work. Changes to the rules are contained in the statements of the Chairman and, from time to time, are consolidated in a revised version of the rules of procedure of the Commission.

46. At its eighteenth session, the Commission considered measures to increase the efficiency of the work of the Commission (see CLCS/52, para. 40). It agreed, inter alia, that the Commission would adopt the following practice:

At the stage of the examination and consideration of a submission by the subcommission:

1. The full content of the submission of any State is in principle available at any time for examination by all members of the Commission. Practical ways to view the material should be agreed upon with the Secretariat.

¹⁹ See CLCS/60, para. 5.

²⁰ In this connection, it should be recalled that two submitting States have made available to members of the subcommissions examining their submissions software packages necessary to carry out their examinations when away from the GIS laboratories of the Division

2. The written records of the internal proceedings of a subcommission are not confidential vis-à-vis the other Commission members.

3. The written communications between a subcommission and the coastal State shall be copied to all members of the Commission.

4. All members of the Commission may freely discuss between them any matters related to any submission, notwithstanding the fact that it is the prerogative and responsibility of the subcommission, through private deliberations, to carry out the examination of a submission on behalf of the Commission and to prepare the final recommendations for consideration by the Commission.

47. During its nineteenth session, one member of the Commission pointed out that the rules of procedure allowed for venues other than United Nations Headquarters in New York to be designated by the Commission in consultation with any coastal State which made a submission, and suggested that part of the examination of certain submissions could be carried out in that State. According to rule 4 of the rules of procedure of the Commission, meetings that take place in venues other than Headquarters must be at no additional cost, directly or indirectly, to the United Nations.

This matter was also addressed in document SPLOS/208, paragraphs 53-58 and 60:

53. At the eighteenth Meeting of States Parties, some delegations suggested that the Commission should consider more efficient ways to examine submissions. In that regard, a view was expressed that the Commission should proceed by way of establishing “precedents”, which would then guide it in the examination of future submissions. According to that view, such precedents would have to be widely disseminated in order to facilitate the preparation of future submissions by coastal States. In this connection, it may be recalled that the summaries of recommendations are published on the website of the Commission.²¹

54. Regarding consistency in technical issues and procedural matters, it should be noted that the Commission had outlined the process of an examination of a submission in section IV, entitled “Main scientific and technical examination of the submission”, paragraph 9 (Examination of the submission), of its “Modus operandi for the consideration of a submission made to the Commission on the Limits of the Continental Shelf”.²²

55. In addition, at the twelfth session of the Commission (during the consideration of the submission of the Russian Federation), it was proposed that the Commission compile an internal report for future reference on general “lessons learned” in order to preserve a record of

²¹ http://www.un.org/Depts/los/clcs_new/commission_recommendations.htm

²² See CLCS/40/Rev.1, annex III.

experience with regard to various procedural, information technology and logistical matters, including data storage and handling, communications with the coastal State and so forth.²³ Such a paper was introduced at the thirteenth session of the Commission,²⁴ at which it was agreed that the lessons learned paper should be kept under review by the Commission to reflect its discussions and to incorporate the additional practical and useful points made by various members of the Commission.²⁵

56. Furthermore, at its eighteenth session, the Commission addressed several technical issues of a general nature for which neither the Convention nor the Scientific and Technical Guidelines provided any specific guidance. The Commission convened an informal open-ended working group with a view to identifying a consistent methodology and approaches that the subcommissions might refer to, as necessary. The working group met on six occasions in order to establish an informal list of such issues and commenced discussions thereon.²⁶

57. The Commission reverted to certain issues of a scientific and technical nature related to the implementation of article 76 of the Convention, which had arisen during the consideration of submissions before the Commission, at its twenty-first session. Several presentations on various issues were made. The presentations were of a general character and did not address issues relating to any specific submission. The Commission decided to continue its discussion of these issues at its next session.²⁷

58. Thus, the Commission periodically addresses various scientific, technical, procedural, information technology and logistical matters with a view to achieving greater consistency in its proceedings and in the work of its subcommissions.

60. The measures described above would not have any direct financial implications on the members of the Commission or on the Secretariat. Their adoption would depend on internal decisions by the Commission about its working methods. It should be noted that the planning of interactions between subcommissions and coastal States depends on the specificities of each submission and may not be planned in a standardized manner.

²³ See CLCS/36, para. 27.

²⁴ See CLCS/39, para. 8.

²⁵ See CLCS/39, para. 9.

²⁶ See CLCS/52, para. 50.

²⁷ See CLCS/58, paras. 51-55.

Proposal

- (4) Improved dialogue/planned interaction between the Sub-commission and the Submitting States
- Provide requests for additional information to the Coastal States during inter-sessional periods. This will maximize the use of the Sub-commissions' and submitting States' time and ensure more productive and proactive discussions when the delegations meet in New York

DOALOS observations

This matter was addressed in document SPLOS/157, paragraph 50:

50. The Commission adopted certain amendments to its rules of procedure, in response to statements made by several delegations at the fifteenth Meeting of States Parties (CLCS/50, paras. 31-45). When adopting them, the Commission recognized that those amendments, which envisage increased interaction between the Commission, the relevant subcommission and submitting States, may affect the time required for the consideration of submissions (see CLCS/50, para. 45).

This matter was also addressed in document SPLOS/208, paragraph 60:

60. The measures described above would not have any direct financial implications on the members of the Commission or on the Secretariat. Their adoption would depend on internal decisions by the Commission about its working methods. It should be noted that the planning of interactions between subcommissions and coastal States depends on the specificities of each submission and may not be planned in a standardized manner.

In this context, it should be further noted that the interactions between a subcommission and the coastal State are governed by section III(6) of Annex III of the rules of procedure of the Commission (CLCS/40/Rev.1):

6. Clarifications

1. The subcommission shall determine whether there are any matters to be clarified by the coastal State.

2. If necessary, the Chairperson of the subcommission shall, through the Secretariat, request clarification from the representatives of the coastal State on those matters. Clarifications should be sought in the form of written questions and answers and translated by the Secretariat, if necessary, into the language in which the submission was made. If the delegation of experts from the coastal State is available at United Nations Headquarters in New York, the written communication should be combined with consultations between the national experts and members of the subcommission at meetings arranged by the Secretariat.

3. The coastal State may provide additional clarification to the subcommission on any matters relating to the submission. Clarifications can be provided in the form of presentations and/or additional materials submitted through the Secretariat.

Proposal

- (5) Encouraging Coastal States to make their presentation of their submissions to the Plenary of the CLCS nearer the date of the actual consideration of its submission. This will spare plenary time for further meetings of sub commissions

DOALOS observations

Section II(2) of the rules of procedure of the Commission (CLCS/40/Rev.1), refer.

II. Organization of the work of the Commission

2. Agenda items related to the submission

Upon notification that a submission has been received and made public in accordance with rule 50, and after a period of at least three months following the date of publication, in accordance with rule 51, paragraph 1, the Commission shall convene its session with the following items on the provisional agenda prepared in accordance with rule 5 and rule 51, paragraph 1:

(a) Presentation of the submission by coastal State representatives, to include the following:

- (i) Charts indicating the proposed limits;
- (ii) The provisions of article 76 of the Convention which were applied, and the location of the foot of the continental slope;
- (iii) Names of members of the Commission who have assisted the coastal State by providing scientific and technical advice with respect to the delineation;
- (iv) Information regarding any disputes related to the submission; and
- (v) Comments on any note verbale from other States regarding the data reflected in the executive summary including all charts and coordinates as made public by the Secretary-General in accordance with rule 50;

(b) Consideration of any information regarding any disputes related to the submission, and decisions in accordance with rule 46 and Annex I to these Rules as to whether to proceed with the consideration of the submission, or part thereof, or not. The Commission may defer these decisions to a subcommission in accordance with paragraph 7;

(c) Consideration of how to proceed with the further work of the Commission, inter alia, by way of a subcommission, in accordance with article 5 of Annex II to the Convention.

The formal invitation to the submitting State(s) to make a presentation is guided by these Rules. However, on each occasion, at the time of the submission and/or when transmitting the official letter of invitation from the Chairperson of the Commission, the Secretariat informally encourages the making of the presentation by the submitting State nearer the date of the actual consideration of their submission, however the decision rests with the coastal State(s) concerned. It appears that the overall impact of the proposal on addressing the workload of the Commission at this time would be insignificant.

Proposal

- (6) Outsourcing part of the work of the Commission
- Outsourcing part of the clerical work of the CLCS to other bodies upon the request and under the supervision of the CLCS
 - Enhanced support from the Secretariat to the work of the Commission in terms of preparation of summary of discussions in the plenary sessions, preparing policies and work plans on submissions, distance calculations, research of reference books etc
 - The possibility of reducing the workload of the CLCS by cooperating with other international organizations.
 - Inviting non-commission experts to assist the Commission in its work
 - Additional review, recommendations on technical, legal and procedural matters would be made by Consultants through the Secretariat
 - Nomination of additional ad hoc experts and technicians to support the work of the Commission

DOALOS observations

This matter was addressed in document SPLOS/157, paragraph 54:

54. In view of the responsibilities of the members of the Commission with regard to the examination of submissions, tasks that require scientific or technical judgement cannot be delegated to the Secretariat. For the same reason and because of concerns of confidentiality, none of those tasks could be outsourced (CLCS/44, para. 49).

This matter was also addressed in document SPLOS/208, paragraphs 49-51:

F. Assistance from other bodies and increased support from outside expertise

49. According to article 3, paragraph 2, of annex II to the Convention, the

Commission may cooperate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

50. To date, the Commission has not resorted to this possibility because the expertise required for the examination of submissions has been available from among its members. This measure would also give rise to complex issues concerning the confidentiality of the data and information included in submissions.

51. Procedural arrangements might need to be established to set up working relationships between the Commission and relevant organizations. At this stage therefore it is not possible to provide financial estimates without identifying, and consulting with, each of the organizations concerned.

In addition, in this regard rules 11, 56 and 57 of the rules of procedure of the Commission (CLCS/40/Rev.1) cover the interactions of the Commission with any outside bodies, and rule 16 covers the duties of the Secretary-General:

Rule 11

Duty to act independently

In the performance of their duties, members of the Commission shall not seek or receive instructions from any Government or from any other authority external to the Commission. They shall refrain from any action which might reflect negatively on their position as members of the Commission.

XIII. Cooperation with competent international organizations

Rule 56

Cooperation with competent international organizations

The procedure for cooperation referred to in article 3, paragraph 2, of Annex II to the Convention shall be decided by the Commission on a case-by-case basis.

XIV. Advice by specialists

Rule 57

Advice by specialists

1. The Commission may, to the extent considered necessary and useful, consult specialists in any field relevant to the work of the Commission.
2. The Commission shall decide in each case the way in which such consultations may be conducted.

Rule 16

Duties of the Secretary-General

1. The Secretary-General shall act in that capacity in all sessions of the Commission and meetings of its subcommissions and any subsidiary bodies which it may establish. The Secretary-General may designate a member of the Secretariat to participate on his or her behalf.
2. The Secretary-General shall be responsible for making the arrangements related to the sessions of the Commission and meetings of its subcommissions and any subsidiary bodies which it may establish and shall provide and direct the staff required for such sessions and meetings.
3. The Secretariat shall perform all work that the Commission may require for the effective performance of its functions.

In this regard it might also be useful to note that the Commission has cooperated, to the extent considered necessary and useful, with other competent international organisations as evidenced from the Statement of the Chairman of the Commission on the progress of work of the Commission during their tenth session (CLCS/32):

32. Upon the recommendation of some members of the Subcommission, the Division for Ocean Affairs and the Law of the Sea organized a visit to the Lamont-Doherty Earth Observatory in Palisades, New York, where several of its members examined the SCICEX-1999 data in the Ocean Drilling Program Data Bank in order to review recent data containing several seismic tracklines and multi-channel seismic and swath bathymetry data.

In relation to enhanced support from the Secretariat see the observations under proposal 9, Strengthening the Secretariat.

Proposal

- (7) Drawing Resources from other Law of the Sea Institutions
- Draw on ITLOS expertise and resources
 - Proposals aiming at stripping resources from other Law of the Sea institutions including ITLOS should be excluded to begin with

DOALOS observations

The Division is not in a position to provide observations regarding this proposal, but notes that paragraph 1, article 2, Annex II, of the United Nations Convention on the Law of the Sea provides that:

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

Paragraph 5 of article 2 of Annex II to the Convention provides that:

The secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

Proposal

- (8) Greater use of technical members of the secretariat to set up submissions for consideration by the Commission.

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 53-54 and 62:

53. The Secretariat, in addition to servicing the sessions of the Commission and meetings of the subcommissions, carries out a significant number of GIS tasks, as well as tasks related to the receipt, recording and custody of submissions, and ensures the confidentiality thereof. The Secretariat also provides specially equipped premises, hardware and software and qualified staff, at a substantial cost to the United Nations. Without such support, the Commission would not be in a position to discharge its functions.

54. In view of the responsibilities of the members of the Commission with regard to the examination of submissions, tasks that require scientific or technical judgement cannot be delegated to the Secretariat. For the same reason and because of concerns of confidentiality, none of those tasks could be outsourced (CLCS/44, para. 49).

62. Apart from the services referred to above, the Secretariat provides a wide range of GIS services, including data structure preparation in accordance with the analytical needs of the subcommission and hardware and software acquisition, maintenance and operation. The tasks associated with data structure preparation include the following:

- (a) Compilation of the hard copy of the data contained in the submission into a consistent GIS format;
- (b) Georeferencing of maps;
- (c) Analysis of large graphic data sets, including bathymetric and GIS data;
- (d) Compilation of spatial information;
- (e) Organization and containment of the data;
- (f) Calculation of geodetic distances, using a number of different methods, as required;
- (g) Manipulation of the vertical exaggeration of bathymetric profiles in a submission;
- (h) Creation of bathymetric profiles extending along the whole continental margin, from the shelf to the abyssal;
- (i) If the supplied data does not allow for the above, the profiles are combined with profiles generated from data from publicly available grids, such as the General Bathymetric Chart of the Oceans (GEBCO) and Gridded Global Relief Data (ETOPO), following the direction of the submitted profile to show it in a whole-margin context;
- (j) Creation of three-dimensional bathymetric models from bathymetric data supplied by the submitting State from publicly available grids such as GEBCO and ETOPO;
- (k) Creation of bathymetric profiles from the three-dimensional models;
- (l) Preparation of grids, including bathymetry, slope surface, slope of slope and profile curvature, according to preset guidelines;
- (m) Creation of stacks of bathymetric profiles around the margin of the submitting State;
- (n) Creation of sediment thickness profiles;
- (o) Running the 1 per cent sediment thickness formula for seismic data supplied by the coastal State, using a number of different methods;
- (p) Scanning and georeferencing hard copies of maps supplied by the coastal State;

(q) Research for additional scientific or bathymetric information that might exist for a given area and incorporation of any data found relevant into the consistent GIS format.

This matter was also addressed in document SPLOS/208, paragraphs 18-20:

III. Current working arrangements of the Division for Ocean Affairs and the Law of the Sea as secretariat of the Commission and measures it has adopted to address the workload of the Commission

18. According to article 2, paragraph 5, of annex II to the United Nations Convention on the Law of the Sea (hereinafter the "Convention"), "[t]he secretariat of the Commission shall be provided by the Secretary-General of the United Nations". The Division, as the unit of the United Nations Secretariat entrusted to perform the Secretary-General's functions under the Convention, provides, *inter alia*, secretariat services to the Commission. Currently, a team of 13 staff members is assigned to provide services to the Commission in addition to their other functions in the Division. Notably, while GIS support has been rendered to the satisfaction of the Commission, the provision of such support has been carried out under particularly challenging circumstances. For that reason, the Division highlighted in document SPLOS/157 the need for additional GIS support for the Commission.²⁸ At the time of the preparation of the present note, the Division has two GIS officers and a third one was being recruited.

19. In performing the secretariat functions for the Commission, the Division is guided by the Convention and by the rules of procedure of the Commission. The functions include providing the Commission with procedural and administrative assistance, as well as organizing and servicing its sessions and meetings of subcommissions and any subsidiary bodies;²⁹ the handling of submissions,³⁰

²⁸ See paras 19-21 below for more details on the GIS support provided by the Secretariat.

²⁹ See the rules of procedure of the Commission, in particular rule 3: notification of opening date of session; rule 4: provision of venue; rule 5: agenda (in this connection see also: rule 51, para 1: inclusion of submissions in the provisional agenda); rule 16, paras 2 and 3: arrangements related to the sessions of the Commission and meetings of its subcommissions and any subsidiary bodies/provision of staff for sessions and meetings/performance of all work required by the Commission for the effective performance of its functions; rule 18: preparation of financial implication estimates; rule 32: circulation of proposals made by members of the Commission on the Limits of the Continental Shelf during its debate; rule 51: transmission of notification from Commission to State as to when/where the submission will be first considered; annex III.6 and III.10: transmission of communications between subcommissions and coastal State (and translations if needed); annex III.6: arrangements for consultations between Subcommission and delegation of the coastal State; annex III.8: transmission of notification of preliminary timetable from Commission to delegation of the coastal State.

³⁰ See the rules of procedure of the Commission, in particular rule 44 bis (and annex III, para 2 (a)): establishment of practical mechanisms to consider the material contained

recommendations³¹ and charts and relevant information describing the outer limits of the continental shelf established on the basis of recommendations.³² As part of its functions, the practice of the Division has been also to carry out certain other activities that have been necessary for the efficient functioning of the Commission, some of which are very time-consuming and resource-intensive, such as the initial verification of the integrity of submissions and identification of discrepancies occurring therein, if any.³³

20. In relation to the examination of submissions by subcommissions, the Secretariat also provides the Commission with specialized technical assistance through a wide range of GIS services. The assistance ranges from data preparation in accordance with analytical needs to hardware and software acquisition, maintenance and operation. The related services were described in detail in paragraph 62 of document SPLOS/157. Such services enable the Commission to focus specifically on scientific and technical issues regarding the data and information contained in a submission.

In relation to enhanced support from the technical members of the Secretariat see also the observations under proposal 9, Strengthening the Secretariat.

in submissions and ensure its confidentiality if necessary; rule 46: translation of submissions made in language other than English, if needed; rule 47: recording of the submission; rule 48: acknowledgement of the submission; rule 49: notification of the receipt of a submission/publication of the proposed outer limits contained therein; annex II.1: safe custody of the submission; annex II.3: access to confidential material and surveillance thereof through dedicated procedures and in designated rooms; annex II.4: participation in deliberations that involve confidential material; annex II.5: assistance to the Commission in the enforcement of rules on confidentiality; annex III.7: return of confidential material to coastal State.

³¹ See the rules of procedure of the Commission, in particular rule 53, para. 3: custody and translation, if needed, of the recommendations; annex III.14: transmission of recommendations from the subcommission to the Chairperson of the Commission.

³² See the rules of procedure of the Commission, in particular rule 54, para. 1: depositary of the outer limits; rule 54, para. 2: depositary of the delimitation lines, if any; rule 53, para. 3 (and annex III.11.3): due publicity of the outer limits as well as of the recommendations (summary).

³³ Other activities include: assistance provided to the Commission by way of a Secretary and Deputy-Secretary; procedural assistance provided to subcommissions; technical assistance provided to the Commission and its subcommissions; circulation of notes from other States to the members of the Commission and to all States; transmission of recommendations from the Commission to the State; preparation of the drafts of routine documents by the Commission, such as the statements by the Chairmen on the progress of work at each session.

Proposal

- (9) Strengthening the Secretariat
- More GIS Officers to enable all Sub-commissions to work concurrently
 - Strengthening the DOALOS library resources with adequate reference material and latest scientific papers/bibliography

DOALOS observations

The GIS support proposal was addressed in document SPLOS/157, paragraph 63, stating the need to regularize one of the GIS officers and add two additional GIS officers:

63. At the eighteenth session of the Commission, when five subcommissions had to work simultaneously, it became evident that the specialized staff, as well as the technical and other facilities, were overstretched. Consequently, the Commission reiterated its concerns regarding the preparedness of the Secretariat to provide the necessary services in view of its increasing workload. In response, the Secretariat prepared a summary of needs on the basis of its previous requests and identified requirements:

(a) *Staff*: considering the nature of work it becomes necessary to add two additional GIS officers and regularize the status of one of the current GIS officers;

(b) *Hardware*: there is a need for a server and a backup solution, two multimedia projectors, a colour laser jet printer and two black and white laser jet printers;

(c) *Software*: the following are required: ESRI, Caris, GeoCap, GeoMod, GeoSoft, Marzone, Surfer, ERDAS Imagine and Fledermaus Pro applications and training for Caris, GeoCap, Surfer and ERDAS Imagine;

(d) *Office equipment*: storage will have to be upgraded with movable shelves to maximize space.

The GIS support proposal was also addressed in document SPLOS/208, paragraph 18, summarizing that the GIS officer, mentioned earlier, was regularized and the Division is in the process of hiring one additional GIS officer:

18. According to article 2, paragraph 5, of annex II to the United Nations Convention on the Law of the Sea (hereinafter the "Convention"), "[t]he secretariat of the Commission shall be provided by the Secretary-General of the United Nations". The Division, as the unit of the United Nations Secretariat entrusted to perform the Secretary-General's functions under the Convention, provides, inter alia, secretariat services to the Commission. Currently, a team of 13 staff members is assigned to provide services to the Commission in addition to their other functions in the Division. Notably, while GIS support has been rendered to the satisfaction of the Commission, the provision of such support has been carried out under particularly

challenging circumstances. For that reason, the Division highlighted in document SPLOS/157 the need for additional GIS support for the Commission.³⁴ At the time of the preparation of the present note, the Division has two GIS officers and a third one was being recruited.

The letters dated 20 January and 12 February from the Director, addressed to the Coordinator of the Informal Working Group also provide additional relevant information.

Regarding the library, subsequent to the issuance of document SPLOS/157 (refer to paragraph 24), steps have been taken with a view to assessing, organizing, cataloguing and updating the DOALOS research collection. This work is now close to its completion.

Proposal

- (10) Augmenting the resources of the Trust Fund
- Accrued contribution from States Parties to the Trust Fund to defray costs of participation of Commissioners from developing and Small Island Developing States
 - If additional resources are needed, solutions should be found within existing resource levels

DOALOS observations

This matter was addressed in document SPLOS/157, paragraph 65:

65. Several issues related to the financial implications of the proposed measures concerning the participation of the members of the Commission in its work have already been mentioned under relevant headings. In relation to the financing of the participation of members of the Commission from developing States, a voluntary trust fund was established by the Secretary-General in response to the request contained in paragraph 20 of General Assembly resolution 55/7. The fund covers both travel expenses and daily subsistence allowances.

This matter was also addressed in document SPLOS/208, paragraphs 62-64:

62. The existing voluntary Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing States in its meetings was established by the General Assembly in its resolution 55/7. The Trust Fund covers the per diem and round-trip economy class travel of members of the Commission from developing countries only.

63. Accordingly, if Commission members from States with economies in transition or other States were to have their costs of participation defrayed, the terms of reference of the existing Trust Fund would have to be modified.

³⁴ See paras. 19-21 below for more details on the GIS support provided by the Secretariat.

VI. Financing options

64. Regarding the financing options referred to in the comments of the Informal Working Group, it is recalled that, at the Meetings of States Parties, a number of delegations had emphasized that the solution proposed by the Commission at that time, namely that the members of the Commission receive emoluments and expenses defrayed through the regular budget of the United Nations, needed to be consistent with the obligations of nominating States under article 2, paragraph 5, of annex II to the Convention.³⁵ As a matter of fact, the General Assembly repeatedly reiterated, most recently in its resolution 64/71, the duty of nominating States under the Convention, whose experts were serving on the Commission, to defray the expenses of the experts they had nominated while in performance of Commission duties, and called upon those States to do their utmost to ensure the full participation of those experts in the work of the Commission, including the meetings of subcommissions, in accordance with the Convention.

Proposal

- (11) Review of Terms of Reference of the Trust Fund
- Possibility to extend/expand the mandate of the Trust Fund to include emerging economies
 - To accommodate additional incidental expenditure of benefiting Commissioners e.g., health insurance

DOALOS observations

This matter was addressed in document SPLOS/157, paragraphs 68-69:

Reviewing the terms of reference of the trust fund in order to meet the needs of the Commission

68. The review of the terms of reference of the trust fund, adopted by the General Assembly, must be undertaken in the same forum.

69. It is recalled that the purpose of the trust fund is to defray the cost of participation of the members of the Commission from developing States in the meetings of the Commission. The trust fund is thus limited in its scope and some other members of the Commission, for example those from countries with economies in transition, continue to experience difficulties with financing (SPLOS/148, para. 76).

³⁵ See SPLOS/148, para. 68, and SPLOS/164, para. 61.

This matter was also addressed in document SPLOS/208, paragraphs 61-63, 66 and 76-77:

H. Increased use of the Trust Fund to defray the cost of participation of members from developing States and possible establishment of an additional trust fund

61. At the seventeenth Meeting of States Parties, some delegations proposed the broadening of the scope of the terms of reference of the trust fund relating to the work of the Commission to, inter alia, include States with economies in transition among the beneficiaries of the voluntary fund established to facilitate the participation of members in the work of the Commission. Other delegations stated that they would not be in a position to contribute to a trust fund which would provide assistance to countries other than developing countries.³⁶

62. The existing voluntary Trust Fund for the purpose of defraying the costs of participation of the members of the Commission from developing States in its meetings was established by the General Assembly in its resolution 55/7. The Trust Fund covers the per diem and round-trip economy class travel of members of the Commission from developing countries only.

63. Accordingly, if Commission members from States with economies in transition or other States were to have their costs of participation defrayed, the terms of reference of the existing Trust Fund would have to be modified.

...

66. With regard to proposals concerning the broadening of the scope of the terms of reference of the above-mentioned Trust Fund (see paras. 61-63 above), it is noted that the viability of such a solution would greatly depend on the ability and willingness of donors to contribute amounts sufficient to support the extended work of members of the Commission.

...

76. As a way to address the increased financial implications for the nominating States if the Commission were to operate on a full-time basis, the Meeting of States Parties could consider amending the terms of reference of the Trust Fund.

77. However, as trust funds are based on voluntary contributions, they could not provide the Commission with the financial stability that the Commission would require to perform its functions. The Meeting of

³⁶ SPLOS/164, para. 62.

States Parties could therefore consider the possibility of resorting to the method of assessed contributions used with respect to the International Tribunal for the Law of the Sea and the International Seabed Authority. In addition to the advantage of a sound financial basis for the functioning of the Commission, this option would offer equal conditions of service for all its members.

Any decision concerning modification of the Terms of Reference of the Trust Fund rests with the General Assembly upon a recommendation of the Meeting of States Parties.

Under the current Terms of References of the Trust Fund, the Secretariat has not been in a position to identify any mechanism which would allow financing of health insurance for eligible members of the Commission.

MISCELLANEAOUS MEASURES

Proposal

Establishment of a Panel of wise men to assist feasibility of proposals and ideas

- A panel of wise men composed inter alia of former, non-active Commissioners with special insights into the Commissions procedures, could be established in order to assist the working Group, DOALOS and the Conference of States Parties in assessing the feasibility of proposals and ideas

DOALOS observations

The Commission is fully competent to address internally its procedures, working methods and organization of work. Final observations contained in document SPLOS/208, paragraphs 70-78, copied under proposal 1 of Systemic Measures above, may be relevant in relation to the impact of proposals and ideas.