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A. Introduction

1 The Commission on the Limits of the Continental Shelf ('Commission') is one of the bodies established under the United Nations Convention on the Law of the Sea (→ *Law of the Sea*). The Commission is assigned certain functions in respect of the implementation of Art. 76 UN Convention on the Law of the Sea dealing with the definition of the → *continental shelf*. Art. 76 (1) UN Convention on the Law of the Sea provides that the continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its → *territorial sea* throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles ('nm') from the → *baselines* from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance. Subsequent paragraphs of Art. 76 UN Convention on the Law of the Sea lay down rules for the precise definition of the outer limit of the continental shelf in cases in which the outer edge of the continental margin extends beyond 200 nm. The establishment of that outer limit is much more complex than the establishment of the outer limit of the continental shelf in a case where it extends to the 200 nm limit. The functions of the Commission under the UN Convention on the Law of the Sea are related to the establishment of the outer limit of the continental shelf beyond 200 nm. The Commission does not have any functions in relation to the establishment of the outer limit of the continental shelf at the 200 nm limit.

B. Negotiating History of Art. 76 UN Convention on the Law of the Sea

2 The Convention on the Continental Shelf contains an open-ended definition of the outer limit of the continental shelf. Art. 1 Continental Shelf Convention provides that the continental shelf comprises the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of those areas. Although Art. 1 Continental Shelf Convention indicates that the exploitability criterion is only applicable to the seabed and the subsoil of the submarine areas adjacent to the coast, it is uncertain which areas this exactly comprises. Developments in technology after the adoption of the Continental Shelf Convention have made the exploitation of resources in continually deeper water possible. The realization that the deep seabed contained potentially valuable resources, in particular polymetallic nodules, led to the call for an international regime for the deep seabed in the second half of the 1960s. These developments indicated the need for a more precise definition of the outer limit of coastal State jurisdiction (see also → *Jurisdiction of States*). That topic was addressed at the Third United Nations Conference on the Law of the Sea (1973-1982) ('UNCLOS III'; see also → *Conferences on the Law of the Sea*), which resulted in the adoption of the UN Convention on the Law of the Sea. At UNCLOS III a number of influential States opposed the adoption of a uniform limit of 200 nm, arguing among others that under the existing law the continental shelf in certain areas extended well beyond that limit. The outcome of the negotiations at this conference was a compromise. Art. 76 UN Convention on the Law of the Sea provides that the continental shelf can extend beyond 200 nm, if certain conditions are met. At the same time, Art. 76 envisaged the establishment of the Commission, which was intended to serve as a guarantee that those conditions would be complied with by coastal States in applying Art. 76. Another element of the compromise is Art. 82 UN Convention on the Law of the Sea, which envisages payments or contributions in

kind to the → *international community* by the coastal State in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nm.

C. The Commission

3 The role of the Commission is set out in Art. 76 (8) and Annex II UN Convention on the Law of the Sea. A coastal State intending to establish the outer limits of its continental shelf beyond 200 nm is required to submit information on those limits to the Commission. The Commission is required to consider the data and other material submitted by the coastal State and shall make recommendations to the coastal State on matters related to the establishment of the outer limits of its continental shelf. Another function of the Commission is to provide scientific and technical advice if requested to do so by the coastal State concerned during the preparation of the submission.

4 The outer limits of the continental shelf established by a coastal State on the basis of the recommendations of the Commission shall be final and binding. This provision, contained in Art. 76 (8) UN Convention on the Law of the Sea, defines the essence of the relationship between the coastal State and the Commission. Only the coastal State is competent to establish the outer limits of its continental shelf and the Commission cannot impose its views on the coastal State. However, that State is to act on the basis of the recommendations of the Commission. The exact implications of that latter requirement are not clear. It can be noted that during UNCLOS III, the words 'on the basis of' were inserted in the draft of Art. 76 (8) UN Convention on the Law of the Sea to replace the words 'taking into account'. The latter wording would have implied a larger margin of discretion for the coastal State. The provision that the outer limits of the continental shelf shall be final and binding, and permanent, as is provided by Art. 76 (9) UN Convention on the Law of the Sea, is intended to lead to a stable boundary between areas within and beyond national jurisdiction allowing for the orderly exploitation of mineral resources in both areas.

5 The UN Convention on the Law of the Sea does not entrust the Commission with a role in respect of the process of establishing the outer limits of the continental shelf once it has issued its recommendations, and the coastal State does not make a new or revised submission (see also below). The Commission is not competent to assess whether a coastal State has established the outer limits of the continental shelf on the basis of its recommendations. Other States may indicate that they consider that the outer limits of the continental shelf of a State have not been established on the basis of the recommendations of the Commission. This is an example of a dispute over the interpretation or application of Art. 76 that can be settled by the States concerned by recourse to the dispute settlement mechanisms of Part XV UN Convention on the Law of the Sea (see also → *Law of the Sea, Settlement of Disputes*). Other questions concerning the procedure involving the Commission and the coastal State may in large part be excluded from the scope of the compulsory dispute settlement mechanisms of Part XV. Arbitral tribunals have on a number of occasions considered the relationship between the procedure involving the coastal State and the Commission and the delimitation of the continental shelf beyond 200 nm between neighbouring States. The award of the tribunal in Case concerning *Delimitation of Maritime Areas (St Pierre and Miquelon)* suggests that a delimitation between neighbouring States in this area cannot be effected in the absence of outer limits established in accordance with Art. 76 UN Convention on the Law of the Sea. The award in *Barbados and the Republic of Trinidad and Tobago* indicates that the tribunal considered that it could address that delimitation. That conclusion was also reached by the tribunal in *Arbitration between Newfoundland and Labrador and Nova Scotia concerning Portions of the Limits of their Offshore Areas as Defined in the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada-Newfoundland Atlantic Accord Implementation Act*. In that latter case, the tribunal sought to distinguish its decision from that of the tribunal in

Case concerning Delimitation of Maritime Areas (St Pierre and Miquelon). It observed that it was a national tribunal so there was no question of any decision which might be opposable to any international processes for the determination of the outer edge of the Canadian continental shelf. Secondly, it was called upon only to specify the offshore areas of the two parties *inter se*, which the tribunal could do by providing that their boundary shall not extend beyond the point of intersection with the outer limit of the continental margin as determined in accordance with international law. The *Guinea v Guinea-Bissau Arbitration* and *Barbados and the Republic of Trinidad and Tobago* (see also → *Maritime Delimitation Cases before International Courts and Tribunals*) seemed to confirm that this approach could also be taken by an international tribunal. The International Tribunal of the Law of the Sea ('ITLOS') in its judgment of 14 March 2012 in *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)* concluded that it could proceed with the delimitation of the continental shelf beyond 200 nm in the absence of recommendations of the Commission. The Tribunal among others noted that the area subject to delimitation was situated far from the Area and by drawing a boundary it would not prejudice the rights of the international community. In respect of the Commission, the Tribunal observed that just as the functions of the Commission were without prejudice to delimitation of continental shelf boundaries, that delimitation was without prejudice to the delineation of the outer limits of the continental shelf. In addition, the Tribunal observed that the Commission was not in a position to rule on the submissions of Bangladesh and Myanmar due to their dispute over the delimitation of the continental shelf. This led the Tribunal to conclude that if it would not exercise its jurisdiction, the determination of the outer limits of the parties under Art. 76 UN Convention on the Law of the Sea might remain unresolved. That decision 'would not only fail to resolve a long-standing dispute but also would not be conducive to the efficient operation of the Convention.' The Tribunal also considered that letting the existing impasse continue would be contrary to the object and purpose of the Convention.

6 The Commission consists of 21 members who shall be experts in the fields of geology, geophysics or hydrography (Art. 2 (1) Annex II to the UN Convention on the Law of the Sea ['Annex II']). Law is not included in these fields of expertise. It has been suggested that this absence of legal expertise may be an impediment to the proper functioning of the Commission. However, that absence may be explained by the fact that the primary functions of the Commission are technical and scientific in nature. Arguably, the drafters of the UN Convention on the Law of the Sea did not intend that the Commission should be the body deciding on legal questions related to the application of Art. 76.

7 The members of the Commission are elected by the States Parties to the UN Convention on the Law of the Sea from among their nationals and shall serve in their personal capacities (Art. 2 (1) Annex II). The members of the Commission are elected for a period of five years and can be re-elected (Art. 2 (4) Annex II). The initial election of the members of the Commission took place in 1997 and further elections have been held in 2002, 2007, and 2012. During all these subsequent elections more than half of the members of the Commission have been re-elected.

D. The Competence of the CLCS to Deal with Legal Issues

8 Although the Commission's functions are primarily scientific and technical in nature (Annex II Art. 3) the fact that its work is related to the implementation of a provision of a treaty implies that it also touches on legal issues. This raises the question to what extent the Commission is competent to deal with the interpretation of Art. 76 Convention on the Law of the Sea and Annex II. The Commission, in carrying out its tasks, has been required to consider specific questions that are related to the interpretation of Art. 76 and Annex II and the Convention requires that the Commission makes its recommendations in

accordance with Art. 76 and the Statement of Understanding adopted on 29 August 1980 by UNCLOS III (Annex II Art. 3).

9 Certain States Parties to the Convention have explicitly observed that they consider that the mandate of the Commission does not involve the interpretation of Art. 76 Convention on the Law of the Sea, but the Chairman of the Commission has indicated that in his view it is within the competence of the Commission to interpret Art. 76 and Annex II for the fulfillment of the Commission's mandate. On the other hand, the Commission in its recommendations to coastal States has pointed out that they only deal with issues related to Art. 76 and Annex II 'and are without prejudice to matters relating to the delimitation between States, or application of other parts of the Convention or any other treaties'. The views of the Chairman on the Commission's competence in relation to the interpretation of Art. 76 and Annex II prevents other States Parties to the Convention from questioning an interpretation that has been advanced by a coastal State and has been accepted by the Commission. Outer limits on the basis of the recommendations of the Commission are final and binding. The same applies for a State that has made a submission (and other States) in a case in which the Commission in its recommendations has adopted a specific interpretation of Art. 76 or Annex II with which that coastal State or other States are in disagreement. The UN Convention on the Law of the Sea does not offer clear guidance on determining the competence of the Commission in relation to the interpretation of Art. 76. The fact that its functions are the consideration of data and other material concerning the outer limits of the continental shelf and that its membership is not required to include legal expertise indicate that it was not intended that the Commission should deal with issues concerning the interpretation of Art. 76 and Annex II. On the other hand, denying the Commission any competence to deal with issues concerning the interpretation of Art. 76 and Annex II could make the Commission largely ineffective. The Commission would either have to accept the views of the State making a submission or would have to refrain from making recommendations to the extent these would require the interpretation of Art. 76 or Annex II. In the latter case, a procedure would have to be devised that would allow the resolution of the questions concerning the interpretation of Art. 76 or Annex II. Such a procedure is currently not available under the Convention. In the former case, the Commission might find itself in a situation in which it has to accept an interpretation that would lead to the Commission not acting in accordance with Art. 76 and the Statement of Understanding adopted on 29 August 1980 by UNCLOS III. In this case it would be breaching the requirements that rest upon it in exercising its functions. In conclusion, it is difficult to determine the exact scope of the competence of the CLCS to address the interpretation of Art. 76 or Annex II and there is a tension between some of the relevant considerations. On the one hand, the Commission has to be presumed to be competent to deal with issues concerning the interpretation or application of Art. 76 to the extent that it is required to carry out the functions which are explicitly assigned to it. On the other hand, it would be difficult to accept that the Convention intended to implicitly provide a body without legal expertise to rule on the interpretation of Art. 76 and take this competence away from the States Parties to the UN Convention on the Law of the Sea (see also para. 6 above and section F below).

E. Submissions to the Commission

10 Only States that are a party to the UN Convention on the Law of the Sea are entitled to make a submission to the Commission. The language of Art. 4 Annex II indicates that the time frame for the making of a submission is linked to the 'date of entry of this Convention

into force' for a State. Thus, the language of Art. 4 Annex II does not seem to meet the criteria supporting the interpretation that it was intended to accord a right to third States.

11 Where a coastal State intends to establish the outer limits of its continental shelf beyond 200 nm it shall make a submission to the Commission as soon as possible but in any case within '10 years of the entry into force of the Convention for that State' (Art. 4 Annex II). That requirement has been considered by the meeting of States Parties to the Convention. Since 1994, there had been a gradual realization of the problems faced by → *developing countries* in particular in complying with this requirement. To address this issue, the meeting took a decision on 29 May 2001, which provides that for States Parties for which the Convention entered into force before 13 May 1999, the 10-year time period referred to shall be taken to have commenced on that date. It was furthermore decided to keep the general ability of States to fulfill the requirements of Art. 4 Annex II under review. The meeting of States Parties took a further decision in relation of the time limit for making submissions in 2008. Instead of a further extension of this time limit, the meeting of States Parties decided that States Parties could also meet it by submitting preliminary information to the UN Secretary-General. A submission to the Commission in this case could be made at a later stage. Preliminary information is not considered by the Commission prior to the lodging of a submission.

12 A submission by a coastal State is in principle first examined by a sub-commission consisting of seven members of the Commission. That sub-commission is to submit its recommendations to the Commission. Upon approval of the recommendations of the sub-commission by the Commission they shall be submitted in writing to the coastal State which has made the submission. That State is required either to establish the outer limits of its continental shelf on the basis of these recommendations or, in the case of disagreement with the recommendations, to make a new or revised submission to the Commission in a reasonable time. That new or revised recommendation will be handled in accordance with the same procedural rules as the original submission. The Convention does not indicate how a continuing disagreement between a coastal State and the Commission concerning the recommendations of the Commission should be resolved.

13 Arts 76 (9) and 84 (2) UN Convention on the Law of the Sea only impose an obligation on the coastal State to make public information on the outer limits of the continental shelf. The convention does not address the publication of information concerning the submission of a coastal State or the recommendations issued by the Commission. It has been suggested that the lack of detailed information on submissions to, and recommendations of the Commission may make it difficult for other States to establish whether the coastal State has established the outer limits of its continental shelf in accordance with Art. 76 UN Convention on the Law of the Sea. The Commission, in its Rules of Procedure, has sought to address those concerns by requiring that certain information is made available to other States. However, it should be realized that there are limits to the means the Commission may employ to make available additional information on a submission, its consideration or recommendations. In imposing requirements on a submitting State, care should be taken to balance the rights and obligations of that State and other States. Additional requirements imposed have to be proportionate to the end they intend to accomplish in the light of the interests involved. In addition, the Commission has to act in accordance with the provisions of the Convention and any requirement it imposes on a coastal State has to meet this obligation. Another measure the Commission has taken to enhance the transparency of its work is the preparation of a summary of its recommendations. That summary is made

public. The recommendations to a number of States have been also been made public upon approval of the coastal State concerned.

F. The Work of the Commission

14 The Commission started its first term in June 1997. Initially, the Commission focused its attention on the adoption of its Rules of Procedure and Scientific and Technical Guidelines ('Guidelines'). The Rules of Procedure, which were adopted by the Commission in September 1997, among others establish rules on the internal functioning of the Commission and sub-commissions and lay down rules concerning the precise format of submissions by coastal States. The Rules of Procedure envisage the circulation of certain information concerning the submission of a coastal State to other States. Annex I Rules of Procedure lays down specific procedures for a submission that involves the delimitation of the continental shelf between neighbouring States with opposite or adjacent coasts or other land or maritime disputes. Annex I among others provides that where a land or maritime dispute exists, the Commission shall not consider a submission made by a party to the dispute without the prior consent of the other parties to it. These provisions of the Rules of Procedure are intended to ensure that the consideration of a submission and the ensuing recommendations of the Commission are without prejudice to the delimitation of the continental shelf between neighbouring States, as is required by Art. 9 Annex II.

15 The UN Convention on the Law of the Sea does not provide detailed indications on the kind of information a coastal State is to include in a submission to the Commission. The Commission has addressed this issue in its Guidelines, which were adopted in May 1999. The Guidelines aim to clarify the scope and depth of admissible scientific and technical evidence to be examined by the Commission during its consideration of submissions. The Guidelines contribute to making States aware of the kind of information the Commission expects to be included in a submission and should assist in preventing the collection of unnecessary data or the need to gather additional information after the initial submission has been made.

16 Initially, the number of submissions to the Commission was low and until December 2007, only nine submissions had been made. With the time limit for making a submission due to run out on 12 May 2009, the pace quickened considerably after 2007. Seven submissions were made in 2008 and by 12 May 2009 a total of 50 submissions had been lodged with the Commission. In addition, over 30 States had submitted preliminary information by that date. A number of these States have already lodged a subsequent submission with the CLCS. At present, 69 submissions have been made to the CLCS, including two revised submissions. As far as can be ascertained all States Parties to the Convention have complied with their obligation in relation to the time limit mentioned in Annex II of the Convention. Further submissions are to be expected from States that have submitted preliminary information, States that have made a partial submission in accordance with para. 3 of Annex I to the Commission's Rules of Procedure (for who the time limit for making a submission has not yet run out), and States that are currently not a party to the Convention. The total number of submissions can be expected to be over 100.

17 The Commission thus far has issued recommendations in relation to 18 submissions. In the large majority of cases the Commission has to a large extent accepted the outer limits of the continental shelf as contained in the submissions. However, in a number of cases this has not been the case. For instance, in 2002 the Russian Federation was among others recommended to make a revised submission in relation to the outer limits of its continental shelf in the Arctic Ocean and a partial submission in relation to the outer limits of its continental shelf in the Sea of Okhotsk. The Russian Federation lodged the latter submission in February 2013 and is still preparing a new or revised submission in relation

of the Arctic Ocean. In the case of the United Kingdom's submission in relation to Ascension Island, the Commission recommended that it was not possible to establish outer limits beyond 200 nm on the basis of the information submitted by the United Kingdom. The United Kingdom subsequently pointed out that it believed that the consideration of this submission raised issues concerning the interpretation of the Convention. The United Kingdom indicated that it considered that the Commission did not have 'a plenary right to interpret the Convention, which is a task for lawyers'. The United Kingdom suggested that the Commission should seek specialized outside legal advice on the issue it had raised. It is questionable whether this suggestion of the United Kingdom is a viable option for resolving questions over the interpretation of Art. 76. The Commission has consulted with the meeting of States Parties of the UN Convention on the Law of the Sea and the Legal Counsel of the United Nations concerning certain procedural questions, but there is no agreement in the meeting as to whether it has the competence to address substantive issues. A role of the Legal Counsel of the United Nations or other legal experts in this respect would be difficult to reconcile with the primary competence of the States Parties to the Convention to interpret it.

18 The workload of the Commission has raised concerns. At present, a large number of submissions are not yet being considered by the Commission. This poses problems for the coastal States concerned as they will have to retain the expertise needed to finalized the implementation of Art. 76 or will have to rebuild it once their submission is up for consideration by the Commission. This matter has been considered by the UN General Assembly in the contexts of its deliberations on oceans and law of the sea and the meeting of States Parties to the UN Convention on the Law of the Sea. The meeting of States Parties through two decisions of 2010 and 2011 requested the Commission to consider a number of measures to expedite the consideration of submissions. This among others concerned flexibility in the size of sub-commissions—a possibility that is envisaged by the Convention—and simultaneous meetings of the Commission and sub-commissions and an extension of the meeting time of the Commission and sub-commissions for the next five years. After discussion of the requests by the meeting of States Parties the Commission has extended its meeting time and adapted its approach to establishing sub-commissions, which had led to the simultaneous consideration of a larger number of submissions. Although these measures will speed-up the work of the Commission a considerable backlog remains.

G. Submissions Involving Land and Maritime Disputes

19 Annex I to The Rules of Procedure of the Commission allow a State Party to deal with the complications that may arise in respect of a submission that concerns an area of continental shelf that also concerns a third State (see also above para. 14). The submissions that have been lodged with the Commission reveal that the delimitation of the boundaries of the continental shelf between neighbouring States, or other land or maritime disputes, play a considerable role in the process of establishing the outer limits of the continental shelf. These matters play a role in a majority of submissions. In general, submissions involving the delimitation of continental shelf boundaries between neighbouring States have raised less controversy than submissions involving sovereignty disputes over land territory. In the former case, States in general have given their consent to the consideration of submissions by the Commission in accordance with para. 5 of Annex I to the Commission's Rules of Procedure. As para. 5 indicates, this allows the Commission to consider the submission and issue recommendations. Coastal States have taken a number of approaches to submissions involving the delimitation of the continental shelf. A number of States have made a joint submission for an area of continental shelf to which they have an entitlement or have concluded a continental shelf boundary agreement prior to making their submission. In the majority of cases, the coastal States concerned have consulted each other in advance and agreed to communicate to the Commission that the submission and ensuing

recommendations will be without prejudice to the delimitation of continental shelf boundaries. This approach is in accordance with Art. 76 (10) UN Convention on the Law of the Sea which indicates that Art. 76 of the Convention is without prejudice to such delimitation issues. A notable exception to this general trend concerns areas of continental shelf beyond 200 nm that overlap with the continental shelf within 200 nm of another State. In this case, the latter State in general has not given its prior consent to the consideration of a submission by the CLCS. In the case of sovereignty disputes, claimant States in general have not given their consent to the consideration of the submission of (one of) the other States involved in the dispute. The CLCS in general has taken the position that this prevents it from considering such submissions.

20 The Rules of Procedure of the Commission do not define the term land or maritime dispute. The Commission seems to have taken a restrictive approach to this definition. Under this approach questions related to the interpretation or application of Art. 76 UN Convention on the Law of the Sea do not seem to be covered by Annex I to its Rules of Procedure. This may make it difficult for third States to challenge an interpretation or application of Art. 76 by a coastal State that has been approved by the Commission in its recommendations to that State (see also above section D).

21 Annex I to the Rules of Procedure of the Commission has been used by Antarctic claimant States to deal with the possible incompatibility of the rights and obligations of States under the UN Convention on the Law of the Sea and the Antarctic Treaty. At the end of 2004 the claimant States reached a compromise for a common approach, which envisaged two possibilities. A State could either submit information to the CLCS or refrain from doing so. In both cases the submitting State would employ common elements, which had been agreed upon in the consultations between the claimant States. If a State opted to submit information, it would at the same time request the Commission not to take any action in respect of the submission concerning Antarctica. All Antarctic claimant States have by now submitted information to implement Art. 76 in respect of their Antarctic territories on the basis of the agreed common approach. Argentina, Australia, and Norway have submitted information, while requesting the Commission to not consider their submission for the moment. France, New Zealand, and the United Kingdom have indicated, while making a submission for other territories, that for the moment they are refraining from making a submission concerning their continental shelf in Antarctica. Chile has not yet made a submission to the Commission, but has used the opportunity to submit preliminary information. Chile's preliminary information, making reference to the common elements agreed upon between the claimant States, indicates that Chile will inform the Commission which option—making a submission or refraining from doing so—it will choose for the Chilean Antarctic Territory in the future. A number of States have reacted to the communications of the Antarctic claimant States to the Commission. These other states have welcomed the approach that the claimant states have taken in respect of the implementation of Art. 76. As a result of the approach to the implementation of Art. 76 by the Antarctic claimant States there for the time being will be no further action of the CLCS in relation to the submissions that have been made in relation to Antarctica.

H. Conclusions

22 Before UNCLOS III started there was uncertainty about the extent of the continental shelf. Art. 76 UN Convention on the Law of the Sea provides a formula to arrive at precisely defined outer limits. However, it is no more than that. The exact extent of the continental

shelf of a coastal State requires the application of this formula to the specific case. The Commission has an essential role to play in that process.

23 The Commission has been in operation for some 15 years. Its Rules of Procedure and Guidelines have contributed to both identifying and addressing potentially controversial issues in submissions. An obvious example in this respect concerns the procedures that have been devised to deal with (potential) disputes concerning, among others, the delimitation of maritime boundaries between States that may be affected by the consideration of a submission by the Commission. Questions also remain in respect of the implementation of Art. 76. From a legal perspective, one of the most significant issues that may require further consideration is the competence of the Commission to interpret Art. 76 and Annex II of the UN Convention on the Law of the Sea in fulfilling the functions it has been accorded by the Convention.

24 Almost all coastal States that have a continental shelf beyond 200 nm have complied with the initial step in implementing Art. 76 UN Convention on the Law of the Sea by either making a submission to the Commission or submitting preliminary information to the UN Secretary-General. Only a limited number of such coastal States have not yet taken this step. For some of them the 10-year time limit for taking this initial step has not yet run out and some others are not a party to the UN Convention on the Law of the Sea. No better proof of the significance States attribute to Art. 76 UN Convention on the Law of the Sea is possible. At the same time, the difficulties involved in implementing Art. 76 are widely recognized. For one thing, developing States wishing to implement Art. 76 are faced with significant expenditures for a task which requires a high level of expert knowledge. These matters have been brought to the attention of the international community and certain steps have been taken to address them. However, these matters will require continued attention in the future to ensure that all States parties to the Convention complete the implementation of Art. 76.

25 The completion of the implementation of Art. 76 UN Convention on the Law of the Sea can be expected to still take a considerable period of time. The Commission has a considerable backlog in considering submissions and issuing recommendations. Secondly, the experience with the submission of the Russian Federation shows that the making of a new or revised submission may take considerable time. The Russian Federation is yet to make a new or revised submission in respect of the Arctic Ocean, having received recommendations of the Commission on this area in 2002. Thirdly, most States that have submitted preliminary information have not yet proceeded to make a submission to the Commission. Although the meeting of States Parties in creating the possibility of submitting preliminary information has sought to build in certain measures to ensure that States would subsequently make a submission to the Commission, it is not sure that these measures will have the desired result. Finally, the Annex I of the Commission on land and maritime disputes in relation to submissions implies that in certain areas coastal States will not make a submission for an indefinite period of time or the Commission will not consider a submission before all the States involved in the dispute will have given their consent. In view of the intractable nature of certain disputes it is unlikely that such consent will be given in the foreseeable future. At present there is no pressing need to determine the exact extent of the continental shelf in relation to the Area, due to the absence of an interest in mineral resource development of this border region. However, with advances in technology and continued demand for new sources of resources this situation may change in the future, making the finalization of the implementation of Art. 76 a matter of greater urgency.

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