

ABLOS 2008: Draft Outline Presentation on Delimitation of the OCS

- Introduction
- Revision of the modern international law approach to delimitation of continental shelf areas within 200M
 - UNCLOS Article 83
 - the overriding objective: an "equitable solution"
 - the "equidistance/special circumstances" approach
 - what are "special circumstances"?
 - the predominance of geographical factors (coastal projection; disparity in relevant coastal lengths etc)
 - the diminished role of natural prolongation as a criterion for delimitation within 200M following UNCLOS and the advent of the EEZ regime
- How do these principles translate to the OCS context?
 - review of Article 76 and predominance of natural prolongation as the sole basis of entitlement to continental shelf areas beyond 200M
 - irrelevance beyond 200M of other factors relevant to entitlement (and delimitation) within 200M
 - consequence for delimitation of OCS areas in the pursuit of an "equitable solution": the limitations of the "equidistance/special circumstances" approach beyond 200M
- So what role, if any, does equidistance have in delimitation of the OCS?
 - review of theoretical scenarios: (i) opposite coasts generating shared OCS areas; (ii) opposite coasts where only one coast generates OCS entitlement and the other does not; (iii) opposite coasts generating different OCS entitlements; (iv) adjacent coasts generating shared OCS areas; (v) adjacent coasts where only one coast generates OCS entitlement; (vi) adjacent coasts generating different OCS entitlements
 - review of State practice to date in the delimitation of OCS areas (USSR/US, Australia/New Zealand etc.)
 - review of limited caselaw of the ICJ/arbitral tribunals to date (Nova Scotia/Newfoundland/Labrador; Barbados/Trinidad etc.)
- The role and timing of OCS delimitation in the CLCS process
 - examples of OCS delimitation prior to CLCS submission (Australia/New Zealand etc)
 - examples of unilateral CLCS submissions pending OCS delimitation (France, Norway etc)

- examples of joint CLCS submissions pending OCS delimitation (Spain/France/Ireland/UK etc)
- tie in with theoretical scenarios identified above demonstrating that different scenarios support different approaches to the role and timing of OCS delimitation in the CLCS process
- Conclusions
 - the novel considerations that apply to delimitation of OCS areas
 - the results for delimitation methodology beyond 200M
 - the results for role and timing of OCS delimitation in the CLCS process