A Rising Tide: Dispute Settlement under the Law of the Sea

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Outline

I. Introduction
II. Law of the Sea Convention (LOSC)
III. Negotiation
IV. Mediation
V. Conciliation
VI. Arbitration
VII. Judicial Settlement
VIII. Commission on Continental Shelf
IX. Conclusion
What are “islands”? “rocks”? “low-tide elevations”?
LOSCE Compulsory Dispute Settlement

1. International Tribunal for the Law of the Sea (ITLOS)
   -- LOSC Annex VI

2. International Court of Justice (ICJ)

3. Arbitral Tribunal
   -- LOSC Annex VII

4. Special Arbitral Tribunal
   -- fisheries, marine environment, scientific research, navigation
   -- LOSC Annex VIII
Negotiation: 2008 Mauritius-Seychelles EEZ Delimitation Treaty
Mediation: 2015 OAS Mediation of Belize-Guatemala Border Dispute
Conciliation: 1981 Iceland/Norway Continental Shelf Dispute Regarding Jan Mayen Island
LOSC Annex VII Arbitrations

1. Australia and New Zealand v. Japan ("Southern Bluefin Tuna Arbitration")
2. Ireland v. United Kingdom (known as the "MOX Plant Arbitration")
3. Malaysia v. Singapore ("Land Reclamation Arbitration")
4. Barbados v. Trinidad and Tobago Maritime Delimitation Arbitration
5. Guyana v. Suriname Maritime Delimitation Arbitration
6. Bangladesh v. India ("Bay of Bengal Maritime Boundary Arbitration")
7. Mauritius v. United Kingdom ("Chagos Archipelago Arbitration")
8. Argentina v. Ghana (the "ARA Libertad Arbitration")
9. Philippines v. China ("South China/West Philippines Sea Arbitration")
8. Malta v. São Tomé and Príncipe (the "Duzgit Integrity Arbitration")
9. Netherlands v. the Russian Federation ("Arctic Sunrise Arbitration")
10. Denmark in respect of the Faroe Islands v. the European Union ("Atlanto-Scandian Herring Arbitration")
Chagos Archipelago Arbitration
Philippines v. China Arbitration (China’s “Nine-Dash” Line)
International Tribunal for the Law of the Sea (ITLOS)
ICJ Judgments on Law of Sea Since 1994

1998 *Fisheries Jurisdiction* (Spain v. Canada)
2001 *Maritime Delimitation and Territorial Questions* (Qatar v. Bahrain)
2007 *Territorial and Maritime Dispute in the Caribbean Sea* (Nicaragua v. Honduras)
2012 *Territorial and Maritime Dispute* (Nicaragua v. Colombia)
2009 *Maritime Delimitation in the Black Sea* (Romania v. Ukraine)
2014 *Maritime Dispute* (Peru v. Chile)
Provisional Equidistance Line
Identify the Relevant Maritime Area (*Nicaragua v. Colombia*)
ICJ’s Three-Step Delimitation Process (Nicaragua v. Colombia)
ICJ’s Angle-bisector Method
(Nicaragua v. Honduras)
ITLOS 2014 Advisory Opinion for West African Sub-Regional Fisheries Commission
ITLOS Seabed Chamber 2011
Advisory Opinion on Seabed Mining

PROCESS OF SEABED MINING

IRONSAND

SAND ca 90%

IRON ORE ca 10%

PROCESSING

IRON ORE

STORAGE

DIRECT EXPORT

The iron gets magnetically separated from the sand

MARINE ENVIRONMENT

MARINE ENVIRONMENT

SEABED

HIGH QUALITY IRONSAND

Sources
Extended Continental Shelf Claims

[Map of the world highlighting extended continental shelf claims.]

 Continent-shelf claims submitted by the May 13th 2009 deadline:
 - Areas claimed or reserved for claim
 - 200-nautical-mile limit
 - Mid-ocean ridges

*Areas beyond 200 nautical miles

Source: National Oceanography Centre, Southampton, UK (www.ncoc.soton.ac.uk); The Economist
Future LOS Disputes?

High seas fishing
Deep sea-bed mining
Global climate change
Enforcement against pirates
Military incidents on the sea
Smuggling of persons
Cultural objects on seabed