

# Indonesian First Experiences in Delineating Extended Continental Shelf Submission to The UN-CLCS

Sobar Sutisna<sup>1</sup> and Sora Lokita<sup>2</sup>

*The international law, in particular the Law of the Sea Convention (hereinafter: LOSC), has provided a progressive development to Indonesia in the context its territory and jurisdiction. Indonesia as one of the parties of the United Convention on the Law of the Sea 1982 has the right to establish its maritime zones in accordance with the convention. One of those maritime zones is the continental shelf. The delineation of the outer limit of the continental shelf is referred to Article 76 of LOSC. With that regard, Indonesia has just recently completed a process of the first partial submission of its continental shelf beyond 200 nautical miles (ECS) at the United Nations-Commission on the Limits of the Continental Shelf (UN-CLCS). The related ECS area for the first partial submission is located in northwest Sumatra Island. The completion of the first submission brought precious experiences for Indonesia, one of those is concerning the management of maritime boundary and territory. This paper discusses the Indonesian ECS and its submission process and all related matters. In addition, this paper hopefully useful for information sharing among stakeholder, and provide a brief summary for the history of the submission.*

**Keywords :** *Extended Continental Shelf, UN-CLCS, Indonesia*

## I. Introduction

After the successful of Indonesian diplomacy and negotiation in obtaining the provision of an international law to secure its land and waters territorial integrity through a series of the UN Conference on the Law of the Sea, subsequently the international law, in particular the Law of the Sea Convention (hereinafter: LOSC), has provided a progressive development to Indonesia in the context its territory and jurisdiction. Right on the 65th anniversary of the Republic of Indonesia on 17 August 2010, Indonesia succeeded to achieve an invaluable gift in the context of Indonesian territorial and jurisdiction. In that day, Indonesia successfully added its sovereign

<sup>1</sup> Sobar Sutisna, Ir.(INA), M.Surv.Sc.(AUS), Ph.D.(UK) is a Senior Researcher, former Head of Boundary Mapping Center, and member of Advisory board of the Indonesian ECS Technical Team. He was also the President of the Indonesian Surveyor Association (2002-2005).

<sup>2</sup> Sora Lokita, SH (INA), MIL (AUS) is a researcher in the centre for boundary mapping, Bakostranal.

rights territory. The Indonesian submission with regard its continental shelf beyond 200 nautical miles in the respect of northwest of Sumatra received by the International Community through the United Nations-Commission on the Limit of the Continental Shelf (hereinafter: UN-CLCS /the Commission).

The process of submission is not a simple one. Its requires a deep and comprehensive understanding in terms of technical aspects of the LOSC. The complexity is due to various aspects of geosciences and the provision of the LOSC itself. The interpretation of law concerning the definision of some very detail technical terms of geosciences may lead to differences in understanding and selecting of some relevant point, and in drawing the delienation line of interest. It is understood because of the fact that the surface of the earth and the surface of the seabed are irregular in nature. Survey data is the keyword to unswer, but diferent branches of geosciences may provide different methods and interpretations on the surveyed data. This facts maybe under estimated when the provision of the law were made.

Indonesia has dealth with the preparation of ECS submission started since 1999 when BAKOSURTANAL has completed its Marine Resources and Environment Mapping (MREP) project. The survey includes preparation for the provision of the Indonesian archipelagic baselines, mapping the potential marine resources in the exclusive economic zones, territorial waters, archipelagic water, and continental shelf areas. In 2003 the first international conference for initiating an effort in delineating the outer limits of the continental shelf beyond 200 nm (ECS) was held in Jakarta and followed up by forming a technical expert team. In 2005 the technical expert teams started to conduct desktop study and various researches intensively for preparing submission material. Some seismic surveys were conducted in 2005, 2006, 2009 and 2010, and the first submission was send to the UN-CLCS on 16 June 2008.

## **II. Indonesia and Its Maritime Zones**

Indonesia as one of the parties of the United Nations Convention on the Law of the Sea 1982 (hereinafter: LOSC)<sup>3</sup> has the right to delineate

---

<sup>3</sup> United Nations, United Nations Conventions on the Law of the Sea. Entered into force 16 November 1994, available at <[http://www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_convention.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm)>. This document was agreed at the third United Nations Conference on the Law of the Sea in 1982; sometimes referred to elsewhere as UNCLOS. In this paper the Convention

and submit the outer limits of its maritime zone in accordance with the provisions stipulated in the convention. Besides the right to determine the internal waters and archipelagic waters, Indonesia also has the right to determine its 12 nautical miles (hereinafter: nm)<sup>4</sup> territorial sea<sup>5</sup>, 24 nm contiguous zone<sup>6</sup>, 200 nm exclusive economic zone<sup>7</sup> and continental shelf<sup>8</sup> from the baseline seaward, unless there is overlapping claim with other countries<sup>9</sup>. When there is overlap, then in accordance with the international law, Indonesia is obliged to determine its maritime boundary with its neighboring countries or through pacific disputes resolutions, such as negotiation or through international arbitration. In the mean time, Indonesia already had 18 maritime boundary agreements with its neighboring countries. The newest is the Indonesian territorial sea boundary agreement with Singapore in the western part of Singapore Straits. The agreement had been ratified by the Indonesian Government through Law No. 4 of 2010 and the instruments of ratification had been exchanged by both governments on 30 August 2010.

With regard to the continental shelf, the LOSC stipulates all related provisions in Chapter VI which consists of ten Articles, they are Article 76 to 85. In general, the continental shelf is an area under the jurisdiction of a coastal State associated with the rights to manage the seabed and subsoil. Regarding the outer limit of the continental shelf, LOSC stipulates that the coastal state may draw its continental shelf up to a distance of 200 nautical miles 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.<sup>10</sup> However, if there is a scientific evidence of a natural prolongation or continental margin of the coastal State extend beyond 200 nm, the coastal state may establish its outer limit beyond 200 nm up to maximum 350 nm (hereinafter: extended continental shelf/ECS)<sup>11</sup>.

---

from the Third Conference is referred to exclusively as LOSC. UNCLOS I, UNCLOS II and UNCLOS III refer to the three conferences, respectively.

<sup>4</sup> Technically the correct abbreviation for nautical mile is 'M'; and 'nm' refers to nanometres. However, for the purpose of this paper, 'nm' is used to denote nautical miles since the same approach is used by many authorities, e.g. the United Nations Division for Ocean Affairs and the Law of the Sea.

<sup>5</sup> Article 3 UNCLOS

<sup>6</sup> Article 33 UNCLOS

<sup>7</sup> Article 57 UNCLOS

<sup>8</sup> Article 76 UNCLOS

<sup>9</sup> Article 15, 74 and 83 UNCLOS

<sup>10</sup> Article 76 UNCLOS

<sup>11</sup> It is worth noting that the terminology of extended continental shelf is not mentioned in the UNCLOS and/or any other international legally binding documents. Based on the UNCLOS, the

It should be underlined that, in accordance to LOSC and international law, to be recognized having an extended continental shelf, coastal States need to get approval from the international community by lodging a submission to the UN-CLCS. The submission should provide all scientific evidences required by Article 76 of LOSC. Those evidences are then reviewed by the UN-CLCS in order to prepare its recommendations related to whether the UN-CLCS accept, reject or revised the submission. The recommendations made by the UN-CLCS are final and binding for the coastal State and the international community.

### **III. Indonesia's Archipelagic Baselines**

The geographical configuration of Indonesia is consisted of numbers of archipelagos, and in accordance to Article 47 of LOSC, Indonesia fulfil the category of an archipelagic State, and may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1. The provision of this archipelagic baselines is a strategic step in the implementation of the LOSC. Article 9 stipulated that the archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations. For this purpose, Indonesia has submitted the list of geographical coordinates of points of its archipelagic baselines, specifying the geodetic datum, to the UN Secretary General on the 19 May 2008.

### **IV. Partial Submissions of Indonesian ECS**

The geographical situation and condition of Indonesia provide opportunities for this world's largest archipelagic State to claim extended continental shelf on three potential areas, namely on the north west of Sumatera

continental shelf of a coastal state comprises the sea-bed 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 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. However, the terminology of Extended Continental Shelf is commonly used in States' official documents and academic writings.



Island, on the south of Java, Bali and Nusa Tenggara Islands, and on the north of Papua.

Picture 1.  
Indonesian three ECS potential areas



(Source: Bakosurtanal)

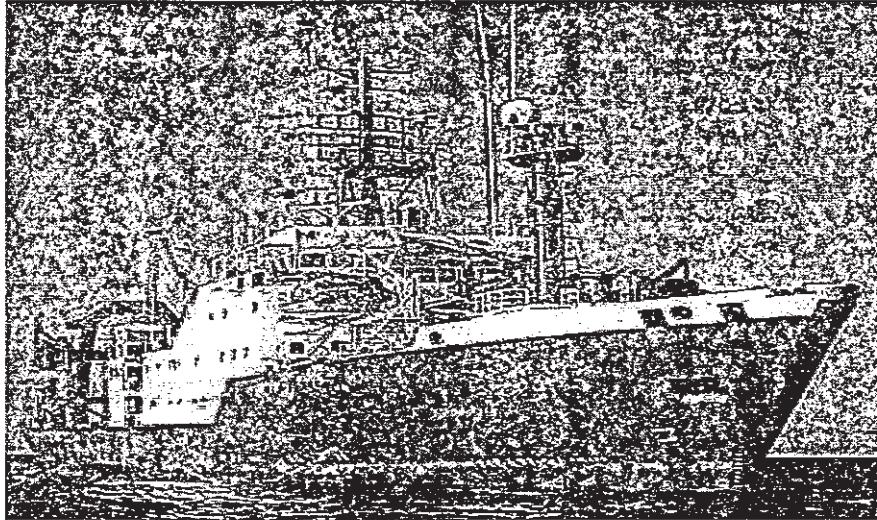
The Indonesian ECS submission was started with desktop studies conducted by the Indonesian technical team using global data. The Technical Team which consists of Bakosurtanal, Ministry of Foreign Affairs, Ministry of Energy and Mineral Resources, Ministry of Maritime Affairs and Fisheries, The Agency For the Assessment and Application Technology (BPPT), the Indonesian Institute of Sciences (LIPI) and the Indonesian Navy analyze various scientific and legal data which possible to be used for the submission.

To gather and complete primary bathymetry and sediment thickness data, the technical team conducted a field survey in 2005 to the west of Aceh Province using a German research vessel named Sonne. After obtaining and analyzing all relevant data, the technical team prepared documents needed for the submission. When it was complete, the Indonesian partial submission with regard of the segment on the north west of Sumatera Is-

land was lodged by the Government of Indonesia to the UN-CLCS on 16 June 2008.<sup>12</sup>

Picture 2.

Sonne research vessel used the Indonesian technical team to conduct its first ECS survey on the west of Sumatera



(Source:<http://www.teesgillthrusters.com/recent-projects-p-11.html>)

Nine months after the submissions lodged, on 24 March 2009, the Government of Indonesia's held its first meeting with UN-CLCS at the UN-Headquarters in New York, USA. On that occasion, Indonesia presented the backgrounds and contents of its submission to all members of the UN-CLCS. The members of the Commission are internationally recognized inter disciplines experts related to the continental shelf. From that first meeting, the UN-CLCS form a Sub-Commission which will be focusing its works to discuss and analyze the Indonesian submission.

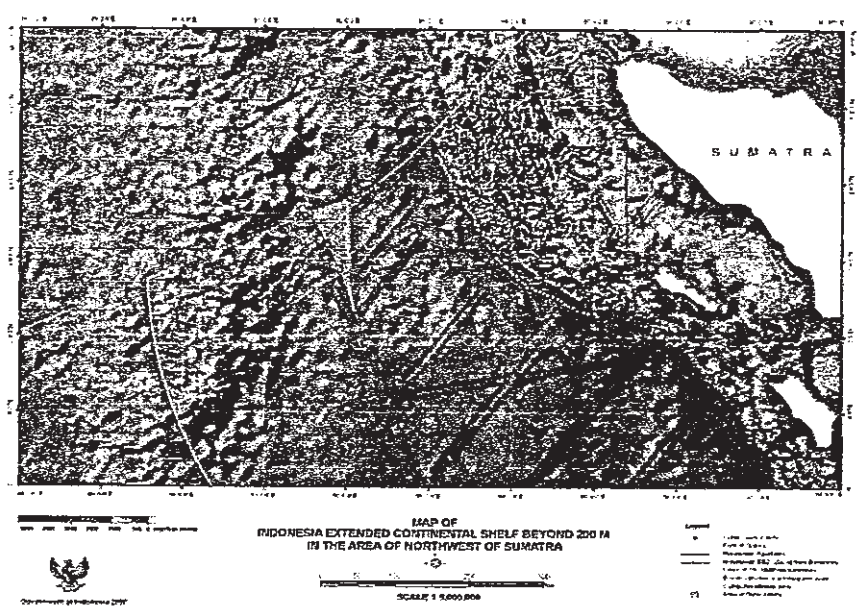
On the 8th to 10th of September 2009, the Indonesian Government met for the first time with the Sub-Commission. In that meeting, both sides had

<sup>12</sup> The executive summary of Indonesian partial submission available at: [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/submission\\_idn.htm](http://www.un.org/Depts/los/clcs_new/submissions_files/submission_idn.htm). It is also worth noting that States Parties of the LOSC, through SPLOS decision number 183, have the right to lodge their submission partially and/or after the deadline of the time period referred to in article 4 of annex II to the Convention and the decision contained in SPLOS/72, paragraph (a), by submitting to the Secretary-General preliminary information indicative of the outer limits of their ECS and a description of the status of preparation and intended date of making a submission in accordance with the requirements of article 76 of the LOSC and with the Rules of Procedure<sup>2</sup> and the Scientific and Technical Guidelines of the UN-CLCS.

a constructive technical discussion on data presented by the Government of Indonesia to support its submission. Due to complexities of materials to be discussed, the formal meeting with Sub-Committee had to be carried again on 30 March -1 April 2010 and the last one was held on 12 - 13 August 2010. During the period between the formal meetings, the Sub-Committee and the Indonesian Government continued their discussions through diplomatic channels. The substances of the discussion mainly on the need of the Sub-Commission to get clarification or additional data in order analyzing the Indonesian submission.

**Picture 3.**

The map is showing the area submitted by the Government Indonesia to the UN-CLCS. Later on, following the process, the area approved by the Commission is larger than the originally submitted.



(Source: Bakosurtanal)

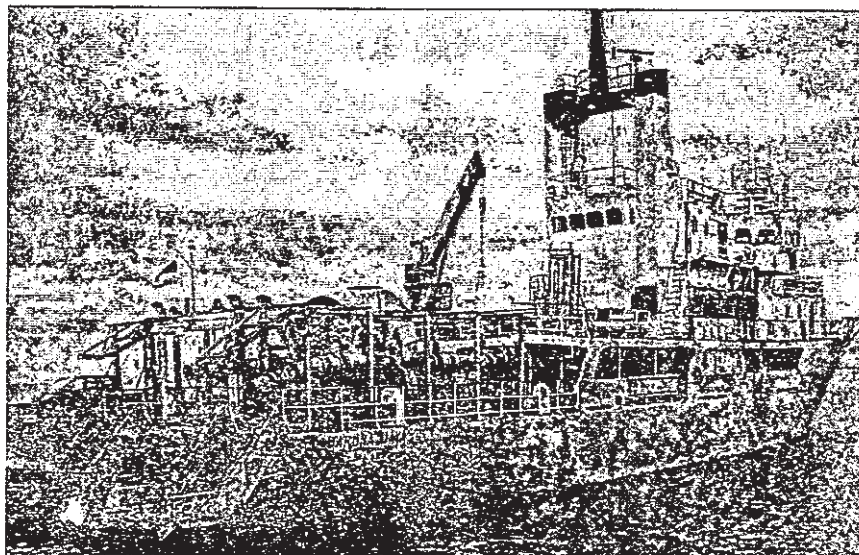
On the sidelines of the discussions, to complete the seismic data needed by the Sub-Commission, the Indonesian Government thought to have an additional field survey. On that basis, an additional survey was carried out on 20 January to 18 February 2010 using a national owned and operated research vessel named Baruna Jaya II. The survey was completely



carryout by Indonesian scientists and crews. They were representatives of related government agencies involved in the technical team. The raw data were collected from the survey, then being processed to prepare additional argument and data to support the submission. The result afterward delivered to the sub-commission for their consideration. The Sub-Commission received the additional data and expressed its appreciation for the efforts performed by the Indonesian Government. It is worth noting here that the additional data submitted by Indonesia made the area of its submission was larger than before.<sup>13</sup>

**Picture 4.**

The Baruna Jaya II Research vessel that was used to conduct additional seismic survey on 20 Januari -18 Februari 2010



(Source: Bakosurtanal)

During the last series of technical meeting between the Government of Indonesia and the Sub-Commission held on 12-13 August 2010; which then followed by a meeting between the Sub-commission the UN-CLCS on 16 August 2010; and between the Government of Indonesia and the UN-CLCS on 17 August 2010, both sides reached similar understandings

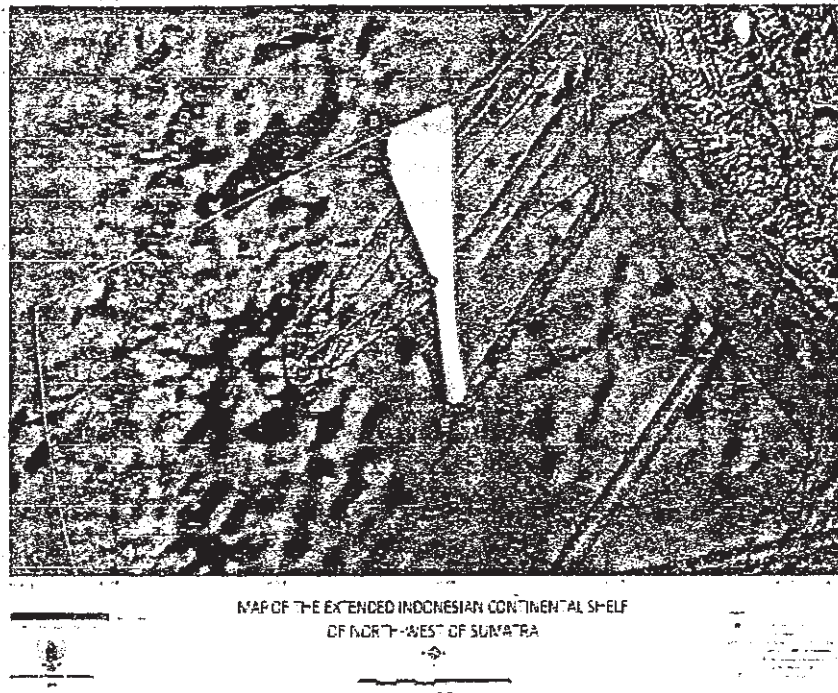
<sup>13</sup> See: Executive Summary of the Update of Indonesia's Partial Submission in Respect of the Area of North West of Sumatra as Response to the Questions asked by the Sub-Commission of CLCS, IDN\_DOC\_COM\_007\_24\_02\_2010



on the Indonesian submission, meaning that the outer limits of the Indonesian ECS on the respective area of northwest Sumatera Island are jointly accepted.

**Picture 5.**

The map showing the area of the Indonesian ECS which already accepted by the UN-CLCS.



(Source: Bakosurtanal)

In other words, an area of approximately 4209 sq km in the northwest of the island of Sumatra has officially become an area of the Indonesian ECS under its sovereign rights, adding to the existing 200 nautical miles continental shelf measured from the archipelagic baselines. It is worth noting, as already mentioned above; the coverage of 4209 sq km of ECS area is larger than Indonesia's first proposal that was only  $\pm 3500$  km<sup>2</sup>. This could be happen due to the result of the additional survey conducted by the technical team and also the intensive discussions with the Sub-Commission. This situation proves that, in general, the meeting and discussion between the Indonesian government and the UN-CLCS conducted in an

open, friendly and professional framework. It is far from the impression of the UN-CLCS is a super institution equipped with full authority to determine countries ECS.

## **V. Follow Up**

After completing this stage, then this should not be the end of Indonesia's efforts to make the same thing happen for the other potential areas. It is noted that from the desktop studies, and the optimism of the technical team, Indonesia will also be able to achieve a success for submissions relating to the area of south Nusa Tenggara and north of Papua.

Of course, preparing those two submissions required a comprehensive preparation. However, at least the Government of Indonesia already has valuable experience from the previous submission. The members of the technical team must have been aware in determining things are needed for the next submission. However, this should be followed by a mechanism of transfer of knowledge and experiences to other Indonesian young scientists and lawyers for the sake of the continuity of this project in the future. Relating to this, it must be highlighted that the queuing line of submissions before the UN-CLCS are extremely long. Many submissions must be reviewed by the Commission which does not have ideal number of members. It is possible and arguably almost the fact that with existing systems, the next Indonesian submissions will need more than 30 years to be discussed by the Commission.

In the context of boundary and territorial management, the Government of Indonesia has a challenge to prepare its human resources and technology so that qualified to manage the seabed and subsoil of the Indonesian continental shelf and its other maritime zones. Up to present, the technology owned by Indonesia in the area of surveying, mapping, exploration and exploitation of the deep sea bed still can be developed much better to meet the actual demand and challenge. For that reason, of course, it is needed a major policy framework of the Government of Indonesia, which can be implemented into the real and applicable programs and policies.

## **VI. Conclusion**

To lodge an ECS submission, a State requires a lot of investment in terms of man powers, technology and infrastructures. Technically, arguably, it seems the developing countries facing difficulties, and the developed countries have more opportunities for success. However, Indonesia had proven that a developing country have the same capability to complete an ECS submission. The Indonesian scientists had shown their caliber. The Indonesian ECS submission was sterile from foreign aids and/or interference, including from any members of the Commission. It is not possible, and should be projected, Indonesian experts should be able becoming the member (or even chairing) the UN-CLCS and any other International LOS-related agencies, noting that Indonesia is the largest archipelagic State in the world which has a lot of interests to fight.

## **Bibliography**

1. Border Mapping Centre Bakosurtanal, Internal Reports, 2004, 2007, 2009.
2. Indonesian Ministry of Foreign Affairs, Resolved Indonesian Maritime Boundaries, 2008
3. Jones, Stephen B., *A Handbook for Statesmen, Treaty Editors and Boundary Commissioners* (1945)
4. Sutisna Sobar (ed), *Pandang Wilayah Perbatasan: Aspek Permasalahan Batas Maritim Indonesia*, Pusat Pemetaan Batas Wilayah, BAKOSURTANAL, 2006
5. Sutisna Sobar (ed), *Pandang Wilayah Perbatasan Indonesia*, Pusat Pemetaan Batas Wilayah BAKOSURTANAL, 2004
6. International Hydrographic Bureau, *A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea - 1982*, Special Publication No.51, 4<sup>th</sup> Edition, March 2006 available at: [http://www.gmat.unsw.edu.au/ablos/TALOS\\_ed4.pdf](http://www.gmat.unsw.edu.au/ablos/TALOS_ed4.pdf) Indonesian partial submission relating to the continental shelf of North West of Sumatra Island, available at: [http://www.un.org/Depts/los/clcs\\_new/submissions\\_files/submission\\_idn.htm](http://www.un.org/Depts/los/clcs_new/submissions_files/submission_idn.htm)
7. Proceeding of the International Seminar on the Technical Aspects of the Law of the Sea, held in Bali, Indonesia 3-5 August 2009