



## Meeting of States Parties

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Item 15 of the provisional agenda\*

### Other matters

## Practice of the Secretary-General in respect of the deposit of charts and/or lists of geographical coordinates of points under the United Nations Convention on the Law of the Sea

### Note by the Secretariat

#### *Summary*

The twenty-ninth Meeting of States Parties requested the Secretariat to prepare a note on the practice of the Secretary-General in respect of the deposit of charts and/or lists of geographical coordinates of points under the United Nations Convention for the Law of the Sea and pursuant to relevant General Assembly resolutions, for submission to the thirtieth Meeting of States Parties, in 2020 (see [SPLOS/29/9](#), paras. 122-124).

The present note has been prepared pursuant to that request. It contains a description of the legal framework for the exercise of these depositary functions by the Secretary-General, as established under the Convention, and an overview of the practice of coastal States and of the Secretary-General, including technical aspects. The note also contains a review of the practice of the Secretary-General in giving publicity to the deposited information. Lastly, it contains recommendations for the attention of States parties to the Convention in relation to certain aspects of the obligations of deposit and related depositary functions.

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\* [SPLOS/30/L.1/Rev.1](#).



## I. Legal framework

### A. Due publicity and deposit obligations under the Convention

1. The United Nations Convention on the Law of the Sea contains the following provisions concerning the deposit of charts<sup>1</sup> and/or lists of geographical coordinates of points with the Secretary-General of the United Nations: article 16, paragraph 2; article 47, paragraph 9; article 75, paragraph 2; article 76, paragraph 9; and article 84, paragraph 2. These provisions also require that due publicity be given to such charts and/or lists by coastal States, including archipelagic States, with one exception: due publicity is to be given by the Secretary-General to charts and relevant information, including geodetic data, permanently describing the outer limits of the continental shelf deposited by a coastal State under article 76, paragraph 9, of the Convention.

2. Article 84, paragraph 2, provides that charts and/or lists of geographical coordinates of points showing the outer limit lines of the continental shelf are to be deposited also with the Secretary-General of the International Seabed Authority.

3. The objective of these provisions was highlighted in the report of the Secretary-General on oceans and the law of the sea submitted at the fifty-ninth session of the General Assembly. According to the report, it is clear and generally well understood that the international community and the users of the seas and oceans need to know the limits of the maritime zones in which a coastal State exercises its sovereignty or sovereign rights and jurisdiction, in view of the different legal regimes applicable. Ultimately, through the delineation of the outer limits of the continental shelf and, where appropriate, the exclusive economic zone, the international community should be able to determine the boundaries of the international seabed area, which is subject to the regime of the common heritage of mankind (A/59/62, para. 47).

4. It is also noted in that report that the deposit of charts and/or lists is an international act by a State party to the Convention in order to conform with the deposit obligations referred to above, after the entry into force of the Convention. This act is separate from other obligations of States such as the registration of treaties under Article 102 of the Charter of the United Nations, even though the maritime boundary delimitation treaties may contain information required under the Convention (ibid., para. 46).

5. Annually, the General Assembly, in its resolutions on oceans and the law of the sea, addresses an appeal to coastal States parties that have not yet done so to deposit with the Secretary-General charts and/or lists of geographical coordinates, as provided for in the Convention, preferably using the generally accepted and most recent geodetic datums.<sup>2</sup>

### B. Role of the Secretary-General as depositary

6. The above-mentioned provisions of the Convention bestow upon the Secretary-General the role of depositary of charts and/or lists of geographical coordinates of points. In paragraph 7 of its resolution 37/66 on the Third United Nations Conference

<sup>1</sup> The term “chart” as used in the Convention implies a nautical chart, which is based on hydrographic surveys and is specifically designed to meet the requirements of marine navigation, showing depths of water, nature of bottom, elevations, configuration and characteristics of coast, dangers and aids to navigation. See International Association of Geodesy and International Hydrographic Organization, *A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea – 1982*, 5th ed., Special Publication No. 51 (Monaco, International Hydrographic Bureau, 2014). Available at [http://pubs.iho.int/iho\\_pubs/CB/C\\_51/C\\_51\\_Ed500\\_062014.pdf](http://pubs.iho.int/iho_pubs/CB/C_51/C_51_Ed500_062014.pdf).

<sup>2</sup> See, for example, resolution 74/19, para. 5.

on the Law of the Sea, the General Assembly approved the assumption by the Secretary-General of the responsibilities entrusted to him under the Convention and the related resolutions. Following the entry into force of the Convention on 16 November 1994, the Assembly, in its resolutions on the law of the sea and, later, on oceans and the law of the sea, requested the Secretary-General to first establish, and subsequently develop and update, the infrastructure and activities to discharge the depositary functions, by taking the following measures:

(a) Establishing appropriate facilities, as required under the Convention, for the deposit by States of maps, charts and geographic coordinates concerning national maritime zones and establishing a system for their recording and publicity as part of an integrated programme on the law of the sea and ocean affairs, distinct from the usual depositary functions of the Secretary-General;<sup>3</sup>

(b) Developing and maintaining the appropriate facilities for the deposit by States of charts and geographical coordinates concerning maritime zones, including lines of delimitation, and giving due publicity thereto;<sup>4</sup>

(c) Improving the existing geographic information system for the deposit by States of charts and geographical coordinates concerning maritime zones, including lines of delimitation, submitted in compliance with the Convention, and giving due publicity thereto, in particular by implementing, in cooperation with relevant international organizations, such as the International Hydrographic Organization, the technical standards for the collection, storage and dissemination of the information deposited, in order to ensure compatibility among the geographic information system, electronic nautical charts and other systems developed by these organizations.<sup>5</sup>

7. The Secretary-General discharges the depositary functions related to the deposit by States of charts and/or lists through the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs.<sup>6</sup>

8. These depositary functions are of a technical nature and do not involve any determination concerning the conformity of the deposited material with the relevant provisions of the Convention (see paras. 15 and 16). The receipt of and publicity given to deposited charts and/or lists do not imply the expression of any opinion whatsoever on the part of the Secretariat concerning the designations employed therein, the presentation thereof, or the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. In addition, due publicity given by the Secretary-General to the deposited charts and/or lists in the context of these depositary functions does not imply recognition by the United Nations of the validity of the related actions and decisions of the respective coastal States.

## II. Practice

### A. Practice of States

9. States parties transmit their charts and/or lists through an official communication addressed to the Secretary-General.

<sup>3</sup> Resolution 49/28, para. 15 (f).

<sup>4</sup> Resolution 52/26, para. 11 (c).

<sup>5</sup> Resolution 59/24, para. 6.

<sup>6</sup> Similarly to the discharge of depositary functions in respect of multilateral treaties, depositary functions are conferred on the Secretary-General only and not on any subordinate official. It is then for the Secretary-General, as depositary, to decide which subordinate official or unit will actually perform these functions.

10. Under the Convention, the object of the deposit is the chart(s) and/or list(s). However, as such charts and/or lists are usually contained in or appended to national legislation, including decrees or other acts of the executive branches of Governments, or agreements on maritime boundary delimitations, their deposit has, in many if not most cases, been effected by the depositing States through the transmittal of such instruments.

11. On occasion, the transmittal communications from the depositing States have contained, or been accompanied by, relevant observations, for example to the effect that deposited charts and/or lists supersede an earlier deposit made by that State; that a deposit is made without prejudice to the outcome of future maritime boundary delimitation negotiations; that the outer limits of the continental shelf have been established on the basis of recommendations made by the Commission on the Limits of the Continental Shelf; that the depositing State is not obliged to keep under review the maritime zones reflected in the official deposit of lists and accompanying illustrative maps, delineated in accordance with the Convention; or that deposited maritime zones are to be maintained notwithstanding climate-change-induced sea level rise. Technical aspects concerning the deposited material may also be addressed therein.

### **Status of the deposits**

12. As at 31 March 2020, there had been 149 deposits<sup>7</sup> of charts and/or lists made by 82 States<sup>8</sup> under the Convention, as follows:

(a) A total of 63 States had made 82 acts of deposit pursuant to article 16, paragraph 2, of the Convention;<sup>9</sup>

(b) A total of 17 States had made 18 acts of deposit of archipelagic baselines pursuant to article 47, paragraph 9;

(c) A total of 44 States had made 64 acts of deposit pursuant to article 75, paragraph 2;<sup>10</sup>

(d) A total of 8 States had made 9 acts of deposit pursuant to article 76, paragraph 9, and 24 States made 33 acts of deposit pursuant to article 84, paragraph 2.<sup>11</sup>

13. Certain deposits of charts and/or lists of geographical coordinates of points concerning the outer limit lines of the continental shelf by some coastal States have been made exclusively with either the Secretary-General of the United Nations or the Secretary-General of the International Seabed Authority.

<sup>7</sup> Of these 149 deposits, 2 were considered as addenda to earlier deposits; 14 deposits and 1 addendum have been superseded in full by subsequent deposits and an additional 4 deposits have been partially superseded by subsequent deposits.

<sup>8</sup> There are 81 States parties to the Convention and 1 State Member of the United Nations, which is not yet a party, that have made deposits. Of these 82 States, 32 have made more than one deposit, with 12 having made more than two deposits. The maximum number of deposits by a single State thus far is 14.

<sup>9</sup> These acts of deposit translated into 49 deposits of straight baselines; 7 deposits of closing lines (this figure includes only those deposits where States have explicitly indicated that they were depositing a bay closing line, including specifically a historic bay closing line, or a river mouth closing line); 26 deposits that included points on the normal baseline; 31 deposits of outer limits of the territorial sea; 12 deposits of outer limits of the contiguous zone; and 17 deposits of lines of delimitation of the territorial sea.

<sup>10</sup> These acts translated into 44 deposits of outer limits of the exclusive economic zone and 41 deposits of lines of delimitation of the exclusive economic zone.

<sup>11</sup> These acts translated into 21 deposits of outer limits of the continental shelf and 25 deposits of lines of delimitation of the continental shelf.

### **Communications received in relation to the deposited charts and/or lists**

14. Approximately 50 communications were received by the depositary from 32 States in response to the circulation of information to all States Members of the United Nations and States parties to the Convention, informing them of deposits (see para. 16). The majority pertained to the construction of baselines. Other issues addressed were related to low-tide elevations or rocks; lack of access to certain maritime zones; the unilateral nature of, and/or methodology for, the delimitation of maritime zones; and sovereignty.

## **B. Practice of the Secretary-General**

### **Communication to new States parties to the Convention**

15. Following the entry into force of the Convention for a coastal State, the Secretariat addresses a communication to the new State party, drawing its attention to articles of the Convention containing provisions related to the due publicity to, and deposit of, charts and/or lists.

### **Receipt by the Secretariat**

16. Given the international nature of an act of deposit of charts and/or lists, it is expected that such an act would be effected in the form of a note verbale or a letter from a person who is considered a representative of the coastal State addressed to the Secretary-General. In virtue of their functions, such persons can be any of the following: a Head of State; a Head of Government; a minister for foreign affairs; or a permanent representative or a permanent observer to the United Nations.<sup>12</sup> Such communications should be accompanied by the relevant charts and/or lists, clearly state the intention to effect a deposit under the Convention and specify the relevant article or articles of the Convention. The mere existence or adoption of national legislation or the registration of a maritime boundary delimitation treaty with the Secretariat under Article 102 of the Charter,<sup>13</sup> even if these instruments contain charts and/or lists, cannot be interpreted as an act of deposit with the Secretary-General under the Convention.<sup>14</sup>

17. Upon receipt of an official communication conforming to the above-mentioned formal requirements, the Secretariat proceeds with a technical review of the deposited charts and/or lists with a view to ascertaining that they correspond to the stated intention of the depositing State and meet the technical requirements provided for in

<sup>12</sup> For the purposes of the deposit of charts and/or lists, the Secretary-General also accepted notes verbales or other communications emanating from the permanent missions or permanent observer missions, as well as ministries of foreign affairs of non-member States, on the understanding that such communications were issued under the authority of one of the persons representing the coastal State.

<sup>13</sup> In accordance with Article 102 of the Charter, every treaty and every international agreement entered into by any Member State after the Charter comes into force shall as soon as possible be registered with the Secretariat and published by it. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of Article 102 may invoke that treaty or agreement before any organ of the United Nations. Consequently, the Secretariat requires that maritime delimitation treaties containing charts and/or lists be first registered under that Article, prior to their transmission to the Division for Ocean Affairs and the Law of the Sea.

<sup>14</sup> The same applies to charts and/or lists included in national legislation transmitted to the Secretary-General for information purposes only. If such charts and/or lists are transmitted without a clear indication by the coastal State of its intention to deposit them under the Convention, the act is not considered an act of deposit. However, the material received may be processed and given publicity in accordance with the mandate and practice of the Division.

the Convention.<sup>15</sup> The Secretariat also verifies that the deposit contains all items referred to in the communication from the coastal State concerned.

18. If needed, the Secretariat may liaise with the depositing State to address typographical errors, missing information (for example, on the geodetic datum), inconsistencies or other technical issues concerning the deposited material, and also with a view to obtaining a digital version of the deposited information if that was not initially transmitted.<sup>16</sup>

### Acknowledgment of receipt

19. The Secretariat acknowledges receipt of the deposit in a note verbale addressed to the permanent mission of the depositing State to the United Nations,<sup>17</sup> confirming receipt and informing the State that: (a) a maritime zone notification<sup>18</sup> will be circulated, in English and French, by the Secretary-General to all States Members of the United Nations and States parties to the Convention to inform them of the deposit; (b) the deposited charts and/or lists will be published on the website of the Division ([www.un.org/Depts/los](http://www.un.org/Depts/los)); and (c) any national legislation or other act or maritime boundary delimitation treaty that included the charts and/or lists that may have been transmitted to the Secretary-General in the act of deposit will also be published on the website and in the *Law of the Sea Bulletin*.<sup>19</sup>

20. Currently, maritime zone notifications are circulated to States through a global documentation management system (gDoc) and published in the maritime space database on maritime zones and maritime delimitation on the website of the Division,<sup>20</sup> along with the deposited charts and/or lists, including any illustrative maps that may accompany the deposit.

### Publicity to and circulation of communications received from States in response to deposits

21. If the Secretariat receives a communication from a State in response to a deposit that was given due publicity through a maritime zone notification, it acknowledges

<sup>15</sup> To this end, the Secretariat verifies that: (a) the deposited charts, if any, are indeed nautical charts, in the sense of the term as used in the Convention, at a scale large enough to ascertain the position of the points; (b) the charts and/or lists show the baselines, outer limit lines of maritime zones and/or lines of delimitation in accordance with the stated intention of the depositing State; (c) the charts and/or lists specify the geodetic datum; and (d) there are no typographical errors in the lists.

<sup>16</sup> For paper charts to be given due publicity on the website of the Division and to be faithfully reproduced in the *Law of the Sea Bulletin*, digital versions of the deposited charts are required. The digital version should meet the following suggested specifications: minimum resolution of 300 dpi 24-bit colour; uncompressed; canvas size at least 100 per cent of the original chart size; and .pdf, .tiff, .jpg/.jpeg or .bmp file format.

<sup>17</sup> In the case of non-member States, these communications are addressed to permanent observer missions or to the relevant official or agency of the coastal State.

<sup>18</sup> Maritime zone notifications are addressed to all States Members of the United Nations, as well as States parties to the Convention, and contain the following information: (a) date of receipt of the deposit (which may be later than the date of the communication transmitting the deposit); (b) name of the depositing State; (c) article or articles of the Convention invoked by the depositing State; (d) specification of whether the State has deposited charts and/or lists; (e) specification of the geodetic datum; (f) description of what the charts and/or lists represent, as provided by the depositing State; (g) information as to whether this deposit supersedes any previous deposits made by the coastal State; (h) relevant information or observations that the depositing State included in the act of deposit, if any; and (i) standard language referring the reader to the website of the Division to consult the deposited material.

<sup>19</sup> A periodic publication prepared by the Division and published three times a year with editorial closing dates of 31 March, 31 July and 30 November.

<sup>20</sup> See [www.un.org/Depts/los/LEGISLATIONANDTREATIES/index.htm](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/index.htm).

receipt of that communication in a note verbale addressed to the permanent mission of the State concerned.

22. Thereafter, as a general rule, the Secretariat proceeds on the basis of the request conveyed by the State concerned in the communication. Where so requested, the Division publishes such communications on the relevant pages of its website and includes them in the *Law of the Sea Bulletin*. In addition, if requested, such communications may also be circulated to Member States and States parties to the Convention, in English and French, under a cover note of the *Law of the Sea* series. However, under current practice, publicity to communications from States in response to deposits for which maritime zone notifications are circulated is given by the Secretary-General only by posting such communications on the website of the Division. No notifications are issued in such cases.

#### **Deposit of charts and/or lists of geographical coordinates of points by non-parties to the Convention**

23. The Secretary-General has also accepted a deposit made by a State that is not yet party to the Convention.<sup>21</sup> That the depositing State is not a party to the Convention was explicitly noted in the corresponding maritime zone notification. The Secretary-General intends to continue to follow this practice in relation to deposits made by non-parties, should they make them in compliance with the formal requirements (see para. 17), in view of the universal and unified character of the Convention and overarching interest in promoting legal certainty and transparency regarding maritime zones and limits, and given that the Convention does not appear to preclude non-parties from voluntarily implementing its relevant provisions. In following this practice, the Secretary-General does not express any views as to the applicability of the Convention to third States. It is the prerogative of States parties to address the substantive or formal aspects of such deposits, should they wish to do so, and should such deposits be made, by transmitting a communication to the depositary.

#### **Technical support to States**

24. On many occasions, coastal States have, before making their deposits, sought advice and assistance from the Secretariat with a view to ensuring that their deposits and corresponding communications would be accepted by the depositary. Such assistance has consistently been provided in conformity with the mandate of the Secretary-General to carry out the responsibilities entrusted in the Convention and related resolutions of the General Assembly, by undertaking efforts to promote better understanding of the Convention and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 in order to ensure their effective implementation and by ensuring appropriate responses to requests of States, in particular developing States, for advice and assistance in implementing the provisions of the Convention.<sup>22</sup>

#### **Cooperation with the International Seabed Authority**

25. Pursuant to article 8 of the Agreement concerning the Relationship between the United Nations and the International Seabed Authority,<sup>23</sup> the secretariats of the United Nations and the Authority have developed a practice of periodically sharing

<sup>21</sup> See maritime zone notification M.Z.N.66.2009.LOS of 10 March 2009. Available at <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/ARE.htm>.

<sup>22</sup> Resolution 52/26, para. 11 (e) and (f).

<sup>23</sup> Resolution 52/27, annex.

information concerning charts and/or lists of geographical coordinates of points defining the outer limits of the continental shelf.

### III. Conclusions, observations and recommendations

26. Following the entry into force of the Convention, an extensive practice has developed on the part of both States and the Secretariat with regard to the deposit of charts and/or lists of geographical coordinates of points with the Secretary-General. Assistance to coastal States in giving due publicity to their baselines and the limits of the maritime zones in which they exercise sovereignty or sovereign rights and jurisdiction is an inseparable aspect of the performance of these depositary functions of the Secretary-General.

27. Numerous requests addressed to the Secretariat from national authorities, United Nations agencies and users of the oceans demonstrate that it is important that the international community be adequately informed about baselines, outer limits of maritime zones and lines of delimitation so that the users of the oceans and seas could conform to the legal regime applicable to maritime zones in which they operate.

28. The practice of States shows the diversity of approaches with regard to the technical aspects of the act of deposit. In this regard, the General Assembly, in paragraph 6 of its resolution 74/19, noted the ongoing efforts of the Secretary-General to improve the existing geographic information system for the deposit by States of charts and geographical coordinates concerning maritime zones, including lines of delimitation, submitted pursuant to the Convention, and to give due publicity thereto. It also noted the ongoing cooperation and progress achieved in the development by the International Hydrographic Organization, in cooperation with the Division of Ocean Affairs and the Law of the Sea, of the technical standards for the collection, storage and dissemination of the information deposited, which are not legally binding, in order to ensure compatibility among geographic information systems, electronic nautical charts and other systems, and re-emphasized the importance of the completion of those efforts through wide participation and reviews by Member States.<sup>24</sup>

29. It appears that the practice of the Secretary-General as the depositary of charts and/or lists could be developed further in several aspects to enhance assistance to States. The practice of States could also evolve with a view to furthering the purpose of the deposit requirements under the Convention.

30. The Meeting of States Parties is therefore invited to consider the following recommendations:

(a) Request the Secretary-General to circulate maritime zone notifications for all communications addressed to him by States in response to notifications informing States about a deposit of charts and/or lists of geographical coordinates of points under the Convention;

(b) Request the Secretary-General to further elaborate on his practice and relevant technical aspects in the forthcoming publication of guidelines on

<sup>24</sup> In a letter dated 30 October 2019, the Chair of the Hydrographic Services and Standards Committee of the International Hydrographic Organization announced that the “S-121 maritime limits and boundaries product specification, edition 1.0.0” had been finalized and published for initial implementation, testing and evaluation, and further stakeholder review (available at <https://iho.int/en/standards-and-specifications>).



deposit with the Secretary-General of charts and/or lists of geographical coordinates under the Convention;<sup>25</sup>

(c) Call upon coastal States to ensure that lines of delimitation effected by an agreement be deposited only following the registration of the respective maritime boundary delimitation treaty with the Treaty Section of the Office of Legal Affairs under Article 102 of the Charter;

(d) Call upon coastal States to ensure that their deposits under article 84, paragraph 2, of the Convention be effected simultaneously with the Secretary-General of the United Nations and the Secretary-General of the International Seabed Authority;

(e) Call upon coastal States to consider, when making a deposit pursuant to the Convention of charts and/or lists of geographical coordinates of points concerning baselines and maritime zones, including lines of delimitation, formatting such lists in accordance with applicable technical standards, in the context of their initial implementation, evaluation and review.

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<sup>25</sup> See resolution [74/19](#), para. 363.