

ILA Straight Baselines Study—Protests

Paragraph 20 of the Interim Report (April 2014) states:

30. For the purposes of this Report it is not possible to provide an exhaustive analysis of all relevant state practice. Nor it is possible to discuss the legal grounds on which States may have predicated their recourse to straight (or closing) baselines, as typically that is not made publicly known. Rather mention will be made of some particular examples of state practice in areas that have been the subject to debate.

Paragraph 41 of the 2014 Report states in part “Not entirely surprisingly, the number of States which have protested relevant state practice in this regard, in proportion to the number of potentially interested States, is very small.” This conclusion is based on the statement quoted from Churchill in 2005: “at least eight different States and the EU have protested to one or more baseline claims”.

Since the Report was dealt with in Washington in April 2014, the straight baseline claims of 91 States were identified. A detailed search for protests thereof uncovered additional protests as set out in the attached table. It lists a total of 80 protests. It shows that the straight baseline claims of 38 States (over 40% of the total) -- all but Iran being parties to the LOS Convention -- have been protested by 20 States and the EU/EC (only two of which – Iran and the US – are not party to the LOS Convention). The table further lists protests of 15 State Parties SBL claims by 25 State Parties. Of those 80 total protests, 29 included protests of straight baselines.

The report should be modified to reflect the results of that search, perhaps as follows:

30. After preparation of the Interim Report, the study identified 91 States claiming straight baselines, all claimants but Iran being parties to the LOS Convention. A list of all publicly available protests of these claims was compiled and the state practice revealed was examined. The study identified a total of 80 protests of SBL claims. The study identified protests by 38 States and the EU/EC of the straight baseline claims (only two of which protesters – Iran and the US – are not party to the LOS Convention). The study further identified protests of 15 State Parties SBL claims by 25 State Parties. Of the 80 total protests, 29 included protests of straight baselines. Mention will be made of some particular examples of state practice in areas that have been the subject of debate.

Publicly Available Protests of Straight Baselines (SBL)

1. Protest of **Albania**'s 1976 SBL

U.S. note 21 July 1989, 1989-1990 Digest 461, Roach & Smith 3rd ed. 92

2. Protest of **Argentina**'s 1966 SBL

U.S. aide memoire 2 March 1967, Roach & Smith 3rd ed. 129

3. Protest of **Cameroon** 1962 SBL

U.S. note Feb 1963, Roach & Smith 3rd ed. 94

4. Protest of **Canada**'s SBL

U.S. note of 1 November 1967 re Labrador & Newfoundland, Roach & Smith 3rd ed. 95

U.S. note of 25 April 1969 re Nova Scotia, Vancouver Island and Queen Charlotte Island, Roach & Smith 3rd ed. 96-97

Canada's 1985 Arctic SBL

UK on behalf of the EC note No. 90/86, 9 July 1986, Roach & Smith 3rd ed. 112

U.S. statements 10 January and 26 February 1986, II Cumulative Digest 1785

5. Protests of **China**'s 1996 and 1998 straight baseline claims

Viet Nam notes verbale 17 May and 6 June 1996 objecting to PRC statement of 15 May 1996, LOSB No. 32, at 88 & 91 (1996)

U.S. note 21 August 1996, Roach & Smith 3rd ed. 98

Viet Nam note verbale 6 August 1998 re Paracels, LOSB No. 38, at 54-55 (1998)

Viet Nam letter to UNSG A/68/980, 22 August 2014,
http://www.un.org/ga/search/view_doc.asp?symbol=A%2F68%2F980&Submit=Search&Lang=E

Protests of China's 2012 claim around the Spratly Islands:

Japan note verbale 24 September 2012, LOSB No. 80, at 39 (2013)

U.S. note 7 March 2013, 2013 Digest 369-370

6. Protest of **Colombia**'s 1984 SBL system

U.S. note 14 July 1988, II Cumulative Digest 1786-1787

7. Protest of **Costa Rica**'s 1988 SBL

U.S. note 18 December 1989, LIS No. 111 (1990)

8. Protest of **Cuba**'s 1977 SBL

U.S. protest 5 July 1983, II Cumulative Digest 1787-1788, Roach & Smith 3rd ed. 115-116, 118

9. Protest of **Denmark**'s 1976 SBL around Faroe Islands

U.S. notes 12 & 18 July 1991, vol. II, 1991-1999 Digest 1583, Roach & Smith 3rd ed. 108

10. Protest of **Djibouti**'s 1985 SBL claim

U.S. note 22 May 1989, II Cumulative Digest 1796, 1989-1990 Digest 459-460

11. Protest of **DPRK**'s 1977 claim

USUN note 4 January 1990, LOSB No. 15, at 8-9 (1990); 1989-1990 Digest 462

12. Protests of the **Dominican Republic**'s 2007 baseline claim

U.S./UK note 18 October 2007, 2007 Digest 641-643, LOSB No. 66, at 98-99 (2008)

U.S. and UK notes 26 October 2010, 2010 Digest 522-524

U.S. note 18 January 2012, 2012 Digest 421-422

13. Protest of **Ecuador**'s 1951 straight baseline claim

UK protest 14 September 1951, IV *Anglo-Norwegian Fisheries Case Documents* 589-590

Protest of Ecuador's 1971 SBL

U.S. protest 24 February 1986, Roach & Smith 3rd ed., 105, 109 (Galapagos), 121

Germany protest November 1986 (Galapagos)

14. Protest of **Egypt**'s 1990 straight baseline claims

U.S. diplomatic note 13 June 1991, vol. II, 1991-1999 Digest 1580-1582

15. Protest of **Guinea**'s 1964 SBL

U.S. protest 4 December 1964, Roach & Smith 94 (1980 decree uses LWL)

16. Protest of **Guinea-Bissau**'s 1985 straight baseline claim

Senegal note verbale 27 May 1986, LOSB No. 8, at 24 (1986)

Guinea-Bissau note verbale response 21 August 1986, LOSB No. 8, at 23

17. Protests of **Honduras**' 2000 straight baseline claim

El Salvador note DM/No. E-05, 27 April 2000, excerpted in LOSIC No. 12, at 37

Guatemala note 2 June 2000, excerpted in LOSIC No. 12, at 37

Nicaragua note 12 May 2000, excerpted in LOSIC No. 12, at 37

Guatemala note 1 September 2009, LOSB No. 71, at 46 (2010)

U.S. note 28 March 2003, 2003 Digest 705-710

18. Protest of **India**'s 2009 baseline claim

Pakistan note verbale 6 December 2011, LOSB No. 78, at 33 (2012)

19. Protests of **Iran**'s 1973/1993 straight baseline claim

USA protest note 11 January 1994, LOSB No. 25, at 101-103 (1994); vol. II, 1991-1999 Digest 1583; LIS No. 114 Annex 3

Iran reply note verbale No. 224 of 24 May 1994, LOSB No. 26, at 35-38 (1994)

Germany (on behalf of EU and acceding States) demarche 14 December 1994 and note verbale 11 September 1995, LOSB No. 30, at 60-61 (1996)

Iran note verbale justifying its SBL, LOSB No. 26, at 35-38 (1994)

Iran note verbale justifying its SBL, LOSB No. 31, at 37-38 (1996)

Qatar note verbale 20 August 1996, A/50/1034, LOSB No. 32, at 89-90 (1996)

Iran letter 18 October 1996 replying to Qatar note, LOSB No. 33, at 87-88 (1997)

US note verbale 6 April 2000, LOSB No. 43, at 105 (2000)

U.S. note of 12 March 2007, 2007 Digest 637-638

20. Protest of **Italy**'s 1977 SBL

U.S. protest 10 December 1986, II Cumulative Digest 1793

21. Protest of **Japan**'s 1996 SBL

U.S. note 17 December 1998, Roach & Smith 3rd ed. 98, Roach & Smith, *Straight Baselines* 64-65

22. Protest of **Libya**'s 1973 SBL Gulf of Sidra

U.S. protest 1974, 1974 Digest 293

U.S. note to UNSG 10 July 1985, LOSB No. 6, at 40 (1985), II Cumulative Digest 1762-1771, 1793-1794, 1810

23. Protest of **Mauritania**'s 1988 SBL

U.S. note 25 January 1990, 1989-1990 Digest 461

24. Protest of **Mexico**'s 1968 SBL in Gulf of California

U.S. protest 23 July 1969, Roach & Smith 3rd ed., 105-106, 116, 118

25. Protest of **Burma**'s 1977 SBL claim

U.S. note 6 August 1982, II Cumulative Digest 1781

UK protest in 1993

Protest of **Myanmar**'s 2008 straight baseline claim around Co Co and Preparis islands

Bangladesh note verbale 6 July 2009, LOSB No. 70, at 61 (2009)

26. Protest of **Nicaragua**'s 2013 SBL claim

Costa Rica letter to UNSG 23 October 2013, A/68/548, 25 October 2013,
<http://undocs.org/A/68/548>,
http://www.un.org/ga/search/view_doc.asp?symbol=A%2F68%2F548

Colombia letter to UNSG S-GACIJ-13-044275, 1 November 2013,
http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn99_2013_col.pdf

U.S. diplomatic note No. 070 of 6 March 2014, 2014 Digest, Chapter 12, pages 30-31

27. Protest of **Oman**'s 1982 SBL

Iran note 4 February 1983, LOSB No. 1, at 38 (1983)

U.S. note 12 August 1991, vol. II, 1991-1999 Digest 1583, Roach & Smith 3rd ed. 85

28. Protest of **Pakistan**'s 1997 baseline claim

India note verbale No. NY/PM/444/3/97 24 February 1997, LOS No. 34, at 46 (1997)

India note verbale 22 May 2001, LOSB No. 46, at 90 (2001)

U.S. note 17 August 1997, Roach & Smith, *Straight Baselines* 63-64

29. Protest of **Portugal** 1985 SBL on mainland coast

U.S. protest 25 August 1986, Roach & Smith 3rd ed. 104-105

Protest of Portugal 1985 SBL around the Azores

U.S. note 25 August 1986, II Cumulative Digest 2068-2069, Roach & Smith 3rd ed. 91-92, 108

30. Protest of **Republic of Korea**'s 1996 SBL system

U.S. protest 23 December 1998, Roach & Smith 3rd ed. 98, Roach & Smith, *Straight Baselines* 61-62

31. Protests of **Saudi Arabia**'s 3 May 2010 baseline claim

Iran note No. 692, 14 August 2012, to UNSG,
http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn77_2010_irn2.pdf

Egypt declaration note verbale 15 September 2010, LOSB No. 74, at 72 (2011)

UAE note verbale 2/6/3 368 to UNSG 5 May 2010,
http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn77_2010_are_eng.pdf

Saudi Arabia note verbale 15 June 2011 replying to UAE protest of 5 May 2010, LOSB No. 76, at 37 (2011)

Iran note verbale 14 August 2012, LOSB No. 80, at 36 (2013); A/67/762 Annex 1, 27 February 2013, <http://undocs.org/A/67/762>

Saudi Arabia reply note verbale 14 March 2013, A/67/836, 12 April 2013, <http://undocs.org/A/67/762>

UAE note verbale WK confidential 3/6/1-181 17 November 2011 (unpublished)

Saudi Arabia letter to UNSG 21 December 2012, A/67/684 (3 January 2013), <http://undocs.org/A/67/684>

32. Protest of **Senegal** 1972 SBL

U.S. protest 29 November 1989, Roach & Smith 3rd ed. 92, 94

33. Protest of **Sudan**'s 1970 SBL

U.S. note 6 June 1989, 1989-1990 Digest 460-461, Roach & Smith 3rd ed. 110-111, 130

34. Protest of **Thailand**'s 1970 SBL as amended in 1993

U.S. note 1995, vol. II, 1991-1999 Digest 1583

Protests of Thailand's 1992 straight baseline claims in Area 4

Germany (on behalf of EU) note verbale 23 December 1994, LOSB No. 28, at 31 (1995)

US note 28 August 2000, 2000 Digest 703-706

35. Protest of **UAE** 2009 straight baselines

Saudi Arabia note verbale to UAE 9 August 2009, LOSB No. 71, at 47-48 (2010)

UAE reply note verbale 12 November 2009, LOSB No. 71, at 50-51 (2010)

36. Protest of **USSR** 1984/1985 SBL

U.S. 1988 note, II Cumulative Digest 1796, based on LIS Nos. 107 (1987) & 109 (1988)

Protest of **Russian** SBL closing access to Murmansk

U.S. note 1992, vol. II, 1991-1999 Digest 1583

37. Protests of **Venezuela**'s 1956 SBL

U.S. protest 22 October 1956, Roach & Smith 3rd ed. 122-123

38. Protests of **Vietnam**'s 1982 straight baseline claims

China MFA statement 28 November 1982, LOSB NO. 1, at 76 (1983), A/37/682-S/15505 30 November 1982

U.S. *aide memoire* to UNSG 6 December 1982, II Cumulative Digest 1796-1797

France note 5 December 1983, LOSB No. 3, at 16 (1984)

Germany note June 1984

Singapore note 5 December 1986, LOSB No. 9, at 53-54 (1987)

Thailand note 9 December 1985, LOSB No.7, at 111-112 (1986), A/40/1033, 12 December 1985

Protests of Vietnam's 2012 straight baseline claim

U.S. note 7 October 2013, 2013 Digest 371-372

Of particular note in reviewing these protests is that the following States not only protested the SBL claims of other States as not complying with article 7 of the LOS Convention, but themselves received protests of their SBL claims as not complying with article 7:

1. Pakistan (by India). India (by Pakistan)
2. Oman (by Iran). Iran (by Qatar)
3. Saudi Arabia (by UAE). UAE (by Saudi Arabia)
4. China (by Vietnam). Viet Nam (by China)

Protests of River Closing Line

Argentina and Uruguay closing line of Rio de la Plata January 30, 1961

Protest by the UK, 26 December 1961, 4 Whiteman, Digest 342-343

Protest by the Netherlands 26 June 1962, 4 Whiteman, Digest 342-343

US protest 23 January 1963, 57 Am. J. Int'l L. 403-404 (1963), 4 Whiteman, Digest 342-343

Abbreviations:

LOSB = UN, Law of the Sea Bulletin, *available at* http://www.un.org/Depts/los/doalos_publications/los_bult.htm

LOSIC = UN, Law of the Sea Circular, *available at* <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/losics.htm>

Digest = Digest of U.S. Practice in International Law, *available at* <http://www.state.gov/s/l/c8183.htm>

LIS = U.S. Department of State Limits in the Seas series, *available at* <http://www.state.gov/e/oes/ocns/opa/c16065.htm>

Roach & Smith, *Straight Baselines* = Roach and Smith, *Straight Baselines: The Need for a Universally Applied Norm*, 31 ODIL 47 (2000)

Roach & Smith 3rd ed. = Roach and Smith, *Excessive Maritime Claims* (3rd ed. Nijhoff 2012)

Whiteman = Digest of International Law, vol. 4, (M.J. Whiteman, ed., Dept. of State Publication 7825, 1965)

Other notes can be found thru links at the country's legislation file of UN DOALOS, <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/regionslist.htm>