

MARITIME LAW:

EXTENDED NIGERIAN CONTINENTAL SHELF – A LEGAL APPRAISAL AND STRATEGIC ECONOMIC PROSPECTS

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September, 2024

1.0. INTRODUCTION

- 1.1. In 2009 Nigeria submitted its request to the **UNITED NATIONS COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF** pursuant to **ARTIUCLE 76 PARAGRAPH 8 OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1982 (UNCLOS)** seeking the United Nation’s approval to extend its continental shelf.
- 1.2. Nigeria became a signatory to the UNLOS on 10th December 1982 and ratified the treaty on the Law of the Seas on 14th August 1986 by depositing its instrument of ratification to the United Nations.
- 1.3. To achieve this lofty objective, the Federal Government of Nigeria had set up a High Powered Presidential Committee (HPPC) on Nigeria’s Extended Continental Shelf Project which consisted of a team of maritime experts notably Professor Larry Awosika (a marine scientist), Surveyor Aliyu Omar and a host of others.
- 1.4. The efforts of the HPPC at the United Nations yielded favorable results when in August 2023 the **UNITED NATIONS COMMISIION ON THE LIMITS OF THE CONTINENTAL SHELF** conveyed the United

- 1.5. Nations approval for Nigeria to extend the limit of her continental shelf from 200 nautical miles to 220 nautical miles
- 1.6. The additional area approved for Nigeria covers an offshore area of 16,300 square kilometers which is approximately five times the size of Lagos and over two times the size of the Federal Capital Territory Abuja.
- 1.7. To put this in clearer perspective, Lagos is 3,345 square kilometers while Abuja is 7,753.9 square kilometers.
- 1.8. The additional area approved for Nigeria has huge potential for hydrocarbons, solid minerals, gas and a wide variety of sedentary species which will be available to Nigeria to explore and exploit for the country's economic benefit.
- 1.9. Usually, after such approval is granted by the United Nations, the beneficiary nation has an option to accept the extension by finalizing the registration with the United Nations Secretary General and bring the process to a close. This process takes at least one year.
- 1.10. However, if Nigeria seek additional area to the already approved 20 nautical miles then it must make a fresh or revised presentation to the United Nations Commission on the Limits of the Continental Shelf supported with additional verifiable geophysics, geology and geographic data which should be able to convince the commission why additional area should be approved for Nigeria far and in excess of the 20 nautical miles already approved. This second option takes at least a period of four years.

- 1.11. Given that Nigeria first made her submission to the United Nations for extension of her continental Shelf in 2009 and got the approval much later in 2023 (a period spanning 15 years), this writer is of the opinion that Nigeria should stick with what has been approved and channel her energy and resources towards exploiting the natural resources that abound within the limits of her extended continental shelf.
- 1.12. Because of immense economic potential and benefit to recipients of extended continental shelf, several countries around the world have at various times made submissions to the United Nations Commission on the Limits of the Continental Shelf (CLCS). Some were successful while some were rejected and quite a large number of applications are still pending for consideration by the United Nations.
- 1.13. The United Nations Division for Ocean Affairs and the Law of the Sea provides a list of countries that have submitted requests to extend their continental shelf through the CLCS pursuant to **Article 76, paragraph 8 of the UNCLOS 1982.**
- 1.14. For example, Brazil submitted its request on 17th May 2004, Australia made its submission on 15th November 2004, United Kingdom of Great Britain and Northern Ireland submitted its request on the 9th of May 2008 in respect of the Ascension Island, France submitted its request in respect of areas of French Guiana and New Caledonia, Ghana made its submission on the 28th of April 2009 etc.

- 1.15. It is remarkable and indeed commendable that Nigeria achieved this extended area of the continental shelf through peaceful diplomatic efforts without going to war or armed conflict with neighboring countries within the Gulf of Guinea.
- 1.16. The quest to extend maritime boundaries of countries have led to quite a number of conflicts among countries with competing interest.

2.0. WHAT IS CONTINENTAL SHELF

- 2.1. Under International Law the sea is divided into four main areas which are listed by order of their proximity to land as follows – Territorial Sea (12 nautical miles from the baseline), Contiguous Zone (a further 12 nautical miles from the limit of the territorial sea base line), Exclusive Economic Zone (200 nautical miles from the baseline which may include the territorial sea) , the Continental Shelf (200 nautical miles from the baseline and may extend up to a maximum of 350 nautical miles) and the High Seas (which is the areas beyond the continental shelf).
- 2.2. **Paragraph 1 of Article 76 of UNCLOS** defines the continental shelf of a coastal state as comprising the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of the land territory to the continental margin's outer edge or 200 nautical miles (370 km) from the coastal state's baseline, from which the breadth of the territorial seas is measured where the outer edge of the continental margin does not extend up to that distance.

- 2.3. By virtue of **paragraph 2 Article 76 of the UNLOS** a state's continental shelf may exceed 200 nautical miles (370 km) until the natural prolongation ends but it may never exceed 350 nautical miles (650 km) from the baseline.
- 2.4. Coastal states reserve the rights to exploit minerals and living resources found in the continental shelf.
- 2.5. The offshore area beyond the continental shelf is referred to as "the High Seas" under international law. The High Seas belongs to no state but is regarded as a common heritage of humanity. Of course, there are also laid down laws that regulate the use of the high seas which is not the focus of this article.
- 2.6. **Paragraph 8 of Article 76 of UNCLOS 1982** created a procedure for the determination of the outer limits of the continental shelf beyond 200 nautical miles by the coastal State based on the recommendations made by the United Nations Commission on the Limits of the Continental Shelf (CLCS) in relation to a submission of information on the limits.
- 2.7. The said paragraph 8 of Article 76 of UNCLOS 1982 provides as follows:

"Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial seas is measured shall be submitted by the coastal state to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to the coastal State on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding".

- 2.8. In its submission of data and information on the outer limits of Nigeria's continental shelf in May 2009, the Government of the Federal Republic of Nigeria identified the western part of the Gulf of Guinea as a region over which it can extend its natural jurisdiction over the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- 2.9. Further in its submission, Nigerian Government informed the United Nations that there was no disputes in the region relevant to the submission. This was key in achieving the extension as the UN is historically favorably disposed to granting extension for undisputed areas in so far as the applicant state was able to provide sufficient data and information to support the application for extension.
- 2.10. The allure of natural resources that abound within the limits of the continental shelf has caused disputes and increased tensions between states laying claim to disputed areas of their continental shelf with other states with whom they share maritime boundaries.
- 2.11. For example on June 15, 2024 Reuters reports that the Philippines filed a claim to extend its continental shelf in South China sea, an area to which China lays claim.
- 2.12. China claims almost the entire South China Sea, including parts claimed by the Philippines, Brunei, Malaysia, Taiwan and Vietnam. Portions of the strategic waterway, where \$3 trillion worth of trade passes annually, and believed to be rich in oil and natural gas deposits, as well as fish stocks.
- 2.13. On June 23, 2024 the South China Morning Post reports that China transmitted a diplomatic note to the United Nations Commission on

- 2.14. the Limits of the Continental Shelf essentially urging the UN not to approve the submission made by both the Philippines and Vietnam
- 2.15. to extend their continental shelf beyond 200 nautical miles which according to China, infringes on its right in the South China sea.
- 2.16. In a related development, on 23rd of May 2024, France 24 reports that Russia unveiled a bill that would redefine its maritime borders in the Baltic sea, causing an outcry among Baltic and other northern European countries and fueling geographical tensions.
- 2.17. According to a draft Russian defence ministry resolution published in May 2024,, Russia plans to extend its territorial waters by changing its maritime borders with Finland and Lithuania in the Baltic Sea from January 2025. The redefined coordinates would see Russia declaring Finnish and Lithuanian areas of the sea as Russian.
- 2.18. “This is an obvious escalation of tensions against NATO and European Union that requires an appropriate firm response,” wrote Lithuania foreign minister, Gabrielius Landsbergis, on X.
- 2.19. Sweden, Estonia and Finland also voiced their disapproval of Russia’s plans.
- 2.20. Given that the quest for states to extend their continental shelf has elicited fierce disputes in some instances, it is good to note that Nigeria’s submission to the United Nations Commission on the extension of its continental shelf did not attract any objections as Nigeria is not in any known border dispute with her neighbors in recent times

3.0. HISTORICAL BACKGROUND

- 3.1. The continental shelf is an area that was clearly defined by consensus of member states of the United Nations after series of United Nations conferences which culminated in the United Nations Convention on the law of the Seas 1982 which established a legal framework for all marine and maritime activities within the area and spelt out a comprehensive regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their natural resources. As at May 2023, 168 states and the European Union have ratified the convention.
- 3.2. The UNCLOS 1982 was a product of the 3rd United Nations Conference on the Law of the Sea which convened in New York in 1973. The first and the second United Nations conference on the Law of the Seas took place in 1930 and 1960 respectively.
- 3.3. The first conference was called by the League of Nations in 1930 at the Hague
- 3.4. Historically, nations scrambled to unilaterally extend the limits of their continental shelf because of the huge economic benefits that abound therein, security of the coastal State and generally to promote its economic interests. For example in 1945 the United States extended its control to all the natural resources of its continental shelf.
- 3.5. Similarly, between 1946 and 1950 Chile, Peru and Ecuador extended their continental shelf to a distance of 200 nautical miles (370km).
- 3.6. Prior to the UNCLOS regime, the prevailing international law principle guiding the use of the sea by nations was that of *res-nullius* (a term in ancient Roman law which means "things belonging to no one" ie

- 3.7. property not yet the object of right of any specific person) which essentially made the sea the common property of all nations of the
- 3.8. world in which every nation had the freedom to explore and exploit the natural resources of the sea. However, under that principle no nation had the power to acquire or exercise sovereign authority over any part of the seas the way each nation did on land.
- 3.9. Given that over time, conflicting claims gave rise to disputes and conflicts between states, the UNCLOS created a legal framework for delineating and defining the limits of not only member states continental shelf but also the other three areas of the sea described in paragraph 2.1. of this article above.

4.0. POTENTIAL BENEFITS

- 4.1. Under **Article 77 of the UNCLOS** a state has exclusive rights as far as exploitation of mineral resources in its continental shelf is concerned. This of course includes right to explore oil and gas deposits, solid minerals and biological resources of the seabed. It is to be noted that even the airspace above the continental shelf is also regarded as part of the continental shelf without prejudice to innocent right of passage of ships and aircrafts under International Law.
- 4.2. A bulk of Nigeria's oil and gas reserves are within offshore basins and the additional 20 nautical miles secured by the Nigerian Government from the United Nations opens a new vista of opportunity and economic prosperity if the natural resources within the continental shelf is properly explored and exploited.

- 4.3. Nigeria petroleum resources contributes over 90% of the country's total export value accounting for major source of the country's foreign exchange earnings.
- 4.4. For 2024 and 2025 the Joint Ministerial Monitoring Committee (JMMC) of the Organization of Petroleum Exporting countries (OPEC) pegged Nigeria oil daily oil production quota to 1.5 million bpd, significantly lower than global top producers Saudi Arabia with 10.4 million bpd and Russia with 9.9 million bpd
- 4.5. Unfortunately, Nigeria has been struggling to meet its assigned quota because of a number of domestic challenges resulting in dwindling production.
- 4.6. It is anticipated that investment in fresh exploration and exploitation in Nigeria's new continental shelf frontier will potentially increase her daily crude oil production, provide more employment in the sector and boost the economy of the country.
- 4.7. The additional area of the continental shelf approved for Nigeria will also open up potential for exploitation of other abundant natural minerals that is known to exist within Nigeria continental shelf but which are yet to be exploited.
- 4.8. According to the Nigerian Institute for Oceanography and Marine Research, in its Review of Potential Economic Mineral Resources in Offshore Nigeria (1982), seismic data and several studies indicate that Nigeria's continental shelf is rich in natural mineral deposits such as phosphorite (a chemical of immense importance in the manufacture of chemical fertilizers), Glaucconite (which serves as a source of potash for use in agricultural fertilizer and a source of

potassium and potassium compounds), calcareous and calcareo-phosphatic debris (which are shell deposits that could be mined for use in the manufacture of cement and lime) and a host of other minerals that are waiting to be explored and exploited.

- 4.9. Nigeria has indicated its readiness to diversify its economy from oil over dependency by creation of a new Federal Ministry of Marine and Blue Economy which is focused on exploring, protecting, and unlocking the tremendous potential of Nigeria's marine heritage and the vast opportunities it presents for economic growth and sustainable development.
- 4.10. Another area of huge economic benefit in the extended area, is the abundant fishery resources in the Continental shelf that can increase Nigeria's fishing capacity which currently stands at a mere 1.2 million metric tons per annum and reduce over dependence on imported fish.
- 4.11. In Nigeria there is demand deficit for fisheries. If the additional area of the continental shelf acquired is properly harnessed, it could provide a sustainable means to meet local demand and have surplus for export.
- 4.12. Central to all the attractive potentials that can accrue from the additional territory is the issue of security in the Gulf of Guinea region.
- 4.13. In April 2024, the International Maritime Bureau reported that Gulf of Guinea accounted for three out of four global

hijackings, all 14 reported kidnappings of crew members, and 75% of crew members held hostage in 2023.

- 4.14. Countries bordering the Gulf of Guinea are Benin, Cote d'Ivoire, Ghana, Guinea, Liberia, Sierra Leone and Togo.
- 4.15. The added 20 nautical miles to Nigeria's continental shelf will therefore provide a veritable opportunity for Nigeria to extend its reach over those areas in order to safeguard its economic interest as well as ensure safe passage of vessel.

5.0. ABSENCE OF PROPER LEGISLATIVE FRAMEWORK IN NIGERIA ON THE CONTINENTAL SHELF

- 5.1. Currently, Nigeria has no robust legislation or rules on its continental shelf. Such an important and strategic maritime zone cannot be left without appropriate and specific legislation to regulate the activities there.
- 5.2. Although there exist a few legislations in Nigeria relating to Nigeria waters, the Government is yet to pay specific legislative attention to the continental shelf of Nigeria as none of those legislation relate directly to the continental shelf.
- 5.3. These legislations are **The Exclusive Economic Zone Act 1978, Territorial Waters (Amendment) Act 1998, National Inland Waters Navigation Act 1997 and the Petroleum Act 1969.**
- 5.4. The Petroleum Act 1969 merely made a brief reference to the continental shelf in **Section 15** thereof which attempted to define Nigerian continental shelf as follows:

“Continental Shelf means the seabed and subsoil of those submarine areas adjacent to the coast of Nigeria the surface of which lies at a depth no greater than two hundred meters (or where its natural resources are capable of exploitation, at any depth) below the surface of the sea, excluding so much of those areas as lies below the territorial waters of Nigeria.”

- 5.5. It is submitted that the above definition falls short of the definition of the continental shelf under International Law particularly with regards to the proper geographical description and the 200 nautical miles component in line with **Article 76 (1) of the UNCLOS** which provides thus:

“The continental shelf of a coastal State comprises the seabed 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.”

6.0. RECOMMENDATIONS

- 6.1. This writer strongly recommends that the Federal Government of Nigeria should urgently forward an executive bill on the continental shelf to the National Assembly for appropriate legislation on the rights, duties and sustainable usage of the continental shelf of Nigeria.
- 6.2. The proposed legislation should cover the following critical areas:

- a. A clear and proper definition of the continental shelf of Nigeria in line with the provisions of the UNCLOS and indeed provide a precise description of the area including the additional 20 nautical miles that was approved by the UN Commission on the Limits of the Continental Shelf.
- b. Make provisions to regulate the exploration and extraction of natural resources in the continental shelf
- c. Clearly define the rights of Nigeria over the continental shelf
- d. Make adequate regulations on such economic activities as fishing, laying of pipe lines and submarine cables, installation of offshore drilling platforms and rigs etc
- e. Safe navigation within the zone
- f. Provisions relating to scientific research within the area
- g. Prevention of pollution
- h. Protection of marine life and environment
- i. Delimitation of the exact coordinates of Nigeria's continental shelf incorporating the extended area gained
- j. Rules and regulation on safe navigation of vessels within the continental shelf
- k. Make provisions on robust security architecture around the continental shelf to protect the country's economic interest considering the security challenges around the Gulf of Guinea
- l. Finally, the Government may consider setting up an agency or commission to administer and regulate the activities around the continental shelf of Nigeria.

7.0. CONCLUSION

- 7.1. The extension of Nigeria's continental shelf by the United Nations Commission on the Limits of the Continental Shelf is quite a remarkable achievement but to fully realize the

economic benefits that comes with the additional area gained by the country, a proper legislative and administrative framework must be worked out by government to regulate the area and ensure sustainable usage.

- 7.2. Given that the country is in urgent need to shore up its crude oil production, the Government must look towards exploration and development of new offshore oil and gas fields within its continental shelf.
- 7.3. Finally, given the rather lengthy time that may be involved if Nigeria were to go back to the UN to seek additional area and the possibility of not succeeding, it is advisable for the country to accept what has been approved by the United Nations Commission on the Limits of the Continental Shelf, take necessary steps to finalize the process at the UN and exercise full control over the already extended area with a view to harnessing the potential economic benefits that abound therein.

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