

**PROPOSALS TO EXPAND AND UPDATE THE SCOPE**  
**OF CHAPTERS 4, 5 AND 6 OF C-51**

1. Special Publication No. 51, A Manual on Technical Aspects of the United Nations Convention on The Law of the Sea – 1982 (TALOS) was last updated by the IHO, IAG, IOC Advisory Board on Law of the Sea in June 2014.

2. The last few years have seen a rise in the number of cases at the International Tribunals where nations are forced to seek justice as the maritime disputes remain unresolved bilaterally. Judgements over the years have indicated that is a considerable scope of interpretation in the existing UNCLOS due to which there has not been consistency in the judgements. With numerous dispute resolution mechanisms coming out with their rulings, considerable interpretations have been observed on numerous contentious issues. Whilst in some case much clarity has been brought out, however in others, the aspect has been further obfuscated and left for more interpretations. In all these instances more than ever the hydrographer has been called to provide expert advise.

3. Due to growth in population and scarcity of resources, there would be an urgency to extend coastal states jurisdiction over resource rich areas at sea. Non resolution of maritime territorial boundaries, overlapping sovereignty over islands territories and offshore features are an imminent threat to the regional stability and source for future conflict in the maritime commons.

4. Chapters 4, 5 and 6 by far are considered as the most significant chapters which have a direct bearing on the outcome of interpretations and judgements. Though the TALOS has been addressing the issues comprehensively, but there is an urgent need to expand the scope and update the information taking into account the various judgements and approaches adopted to enable maritime settlements. The updation of these chapters would make them contemporary and assist the coastal states to bilaterally resolve the disputes and in case that does not happen then prepare for the legal proceedings. It would also assist the Tribunal in pronouncing judgements with more clarity.

5. Chapter 4, 5 and 6 delve into the baselines, features, delineation and delimitations and the various methods to arrive at possible solutions. Few of the aspects that could be included in the next revision of TALOS are enumerated below:-

(a) **Instability of Coast.** Coastal instability and the ability to correctly establish the same with help of charts, photographs, satellite images and establish base points still remains a challenge and there have been instances where varied interpretations have taken place. The unstable coasts around the world are rapidly changing and use of contemporary and accurate data would be the key. Coastal States have taken coastal instability into consideration as was the case in Nicaragua v. Honduras in 2007, Bangladesh v. India in 2014 and recently in Philippines v. China, 2016. In each case, the Tribunal decision was varied for allowing benefits due to coastal instability. What comes out clearly is the importance of historical facts and data collected over the years which can prove or disprove the erosion or accretion which may benefit or result in loss of an area. With adequate experience with numerous judgements, ABLOS could consider including a relevant section in the TALOS with the mechanism, type of data, factors etc., that could substantially establish the approach to be undertaken under various circumstances.

(b) **Method of Delimitation- Equidistance vs Equity.** After an analysis of numerous judgements including the most recent ones, the accepted fact is that the three stage approach has been adopted for arriving at an equitable solution in a delimitation process. The first stage mentions that a provisional equidistance line will be drawn unless compelling reasons exist, thereafter, the second state of invoking factors for adjustment to achieve equitable result and lastly verify any marked disproportionality between ratio of coast and maritime area. This approach is now a reality and it would be beneficial to consider having it documented in the TALOS.

(c) **Grey Areas.** As a consequence of adjusting the equidistance line to enable an equitable status, the possibility of formation of grey areas between two or three or more coastal state exist. This is a new terminology and managing the common grey area with each country having jurisdiction over

different zones is a challenge. Formation of the grey zones and its jurisdiction aspects could be included in the TALOS.

(d) **Reefs, Islands and Artificial Islands.** In the South China Sea dispute, classification of features as rocks or Islands and their maritime boundaries were highlighted and the judgement is open for interpretation. The status of maritime features cannot be plain legal interpretation but are governed by distinguishing features which in some cases are well defined and in the others are not clearly defined in UNCLOS. The sanctity of artificial features and maritime zones around them is also an area which needs amplification. The legalese aspect of the objective capacity of a feature in its natural condition, to sustain either a stable community of people or economic activity that is not dependent on outside resources or purely extractive in nature is of relevance. These could find a mention in the relevant section of TALOS. What could also be included is the importance of maintaining old records of features such as reefs, rocks and islands which invariably provide the vital evidence for passing the judgement.

(e) **Re-establishing the Baselines.** This aspect is also important especially when a coastal state is required to re-establish its straight baselines based on para 2 of Article 7. For any maritime delimitation, Baselines are the start point and today with advent of technology the numerous contemporary methods available to delineate the low water line and the baseline needs to be studied, accepted and utilised. The unsurveyed and poorly surveyed coasts post a challenge and use of contemporary data needs formulation. In order to enable countries to keep their data regularly updated incorporation of contemporary methods could be considered for documentation in TALOS.

(f) **Selection of Base points.** Selection of base points of offshore features like Low Tide Elevation, rocks, reefs, harbour works have significant bearing on the maritime zones of the coastal states, construction and thereafter adjustment of boundaries. Various judgements like the Black Sea case, Nicaragua v. Colombia, Tunisia v. Libya and Qatar v. Bahrain the basepoints have played crucial role in the outcome. There is a need for

inclusion of mechanisms that could assist the personnel involved in delimitation process whilst formulating their approach on this aspect.

(g) **Poorly Surveyed Areas and Use of Satellite Data.** A large part of the coast still remains poorly surveyed and selection of baselines and base points without aid of latest hydrographic data is a challenge. We need to bring in methodology where use of satellite based bathymetry, LIDAR, satellite images are made relevant and available to the coastal states for arbitration and delineation of boundaries.