

## **The Algerian Exclusive Economic Zone and the Exploration for Hydrocarbons in the Mediterranean Sea.**

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**Abstract:** Algeria has decided to create an Exclusive Economic Zone (EEZ) along its coast in 2018, according to chapter five of the United Nations Convention on the Law of the Sea, after a long abstention to create such a zone that lasted more than 36 years from the signature of that convention.

Between the day of the signature of the 1982 convention and the adoption of an EEZ, lots of historical events and developments have taken place, and contributed to the establishment of that Zone. In addition to that, other new reasons have contributed to enact the presidential decree number 18/96 establishing an EEZ.

This article discusses the historical developments that have preceded the adoption of the EEZ and the reasons and causes that pushed the Algerian authorities to adopt it.

**Keywords:** Exclusive Economic Zone - Reserved Fishing Zone - The 1982 Conventions on The law of the Sea - Exploration for Hydrocarbons - Mediterranean Sea.

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According to part five of the 1982 convention on the law of the sea ( the 1982 convention), all coastal states have the right to establish exclusive economic zones ( EEZ) along their coasts up to a distance not exceeding 200 nautical miles from the baselines from which the territorial sea is measured.<sup>1</sup>

Algeria, as a coastal state, has actively participated in the third United Nations' Conference on the Law of the Sea (UNCLOS3), which ended up by the signature of the 1982 convention, and Algeria was one of the signatory states at Montego bay on the 10<sup>th</sup> of December 1982<sup>2</sup>.

Part five of the 1982 convention defines the exclusive economic zone as an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this part, under which the rights and jurisdiction of the coastal state and the rights and freedoms of other states are governed by the relevant provisions of this convention<sup>3</sup>.

This article discusses the late adoption of an exclusive economic zone by Algeria in 2018 after 36 years of the signature of the 1982 convention of the law of the sea, and its ratification in 1996. A brief reminder of events that preceded the establishment of this zone, and the reasons that pushed the Algerian authorities to decide at last to establish an EEZ along its coasts are considered.

### **Historical Developments**

In 2003, while writing my doctorate thesis, I discussed the fact that Algeria despite its geographical situation in the Mediterranean Sea as a geographical disadvantaged state, and despite its signature and ratification of the 1982 convention, has not established an EEZ along its coasts.

Many reasons were put forward by different people to justify this abstention. Some of them think that was probably due to the fact that Algeria, at that time, would have no personal gain in establishing such a zone along its coasts, since the Algerian continental shelf is very narrow, with no significant natural resources. But Algeria supported the position of costal states, before the starting of the United Nations Conference on the law of the sea, and during

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<sup>1</sup>Articles 55, 56 and 57 of the 1982 convention.

<sup>2</sup>The convention came into force on 16<sup>th</sup> November 1994. It was ratified by Algeria in 1996 by Presidential Decree 96/53 of 22<sup>nd</sup> January 1996. Official Gazette n 6 of 24<sup>th</sup> January 1996.

<sup>3</sup>See article 55 of the 1982 convention.

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UNCLOS<sup>3</sup> and worked for the establishment of an EEZ regime from a view of solidarity to support the demands of African states.

In this context the Algerian representative to UNCLOS<sup>3</sup> in the Caracas session on 6<sup>th</sup> August 1974 said that Algeria has no interests in establishing an exclusive economic zone because it is situated on a semi enclosed sea, with no continental shelf or any Important fishing resources. But from a supportive point of view to the will of peoples in the third world, it is demanding to establish that zone with no hesitation.<sup>4</sup>

Some people thought that the Algerian abstention to establish such a zone is probably due also to the fact that no other Mediterranean state has established an EEZ, and therefore, Algeria does not want to be seen as a country that takes unilateral actions concerning the creation of maritime zones, even though the convention allows that that kind of actions<sup>5</sup>.

The abstention of the majority of Mediterranean states to establish exclusive economic zones was explained by Professor Umberto Leanza by the fact that the concept of the exclusive economic zone was invented not for enclosed or semi-enclosed seas, as the Mediterranean sea, where the risks of territorialisation will lead to the disappearance of high seas and will have serious Impact on the freedom of navigation<sup>6</sup>.

This point of view has come to be not exactly true as time went through because the majority of Mediterranean states have adopted legislations or made declarations by which they established EEZs or derivative zones.<sup>7</sup> such as Egypt which made a declaration upon ratification of the convention on 26<sup>th</sup> August 1983, by which it declared that: “The Arab Republic of Egypt will exercise as from this day the rights attributed to it by the provisions of

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<sup>4</sup>See Idriss Dahak, the law of the sea and its application in Arab states, a full study of Arab maritime laws and bilateral and multilateral treaties, second edition, 1987 (no publisher), p.384. (in Arabic). See also the conclusions in the general report of the African states Regional Seminar on the law of the sea, held at Yaoundé 20-30 June 1972. United Nations Legislative Series, ST/LEG/SER.B.

<sup>5</sup> A. Benhamou, Le Nouveau Droit Algérien de la Pêche, RADIC, Vol. n 3 octobre 1999, p 601.

<sup>6</sup> See Habib Slim, L'ASPIM: Outil de Légitimation dans la formation d'Une Norme Coutumière Régionale, [www.uicnmed.org/web2007/2-tallerexpertos/content/habibslim](http://www.uicnmed.org/web2007/2-tallerexpertos/content/habibslim). Visited 4th November 2019, 10.am.

<sup>7</sup>See The Final Report on Costs and benefits arising from the establishment of maritime zones in the Mediterranean sea, June 2013, p.60.

[https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/docs/body/maritime-zones-mediterranean-report\\_en.pdf](https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/docs/body/maritime-zones-mediterranean-report_en.pdf).

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parts V and VI of the United Nations Convention on the Law of the Sea in the exclusive economic zone situated beyond and adjacent to its territorial sea in the Mediterranean Sea and in the Red Sea.”<sup>8</sup>

Algeria was one of these Mediterranean states who adopted an important legislation by which it established a fishing zone in 1994<sup>9</sup>, and ten years later, it established a contiguous zone in 2004<sup>10</sup>.

The fishing zone established in 1994 by Decree Law 94/13 is a maritime area beyond the territorial sea and adjacent to it, measured from the baselines from which the territorial sea is measured up to a distance of 32 nautical miles between the western maritime borders and Cap Tenis, and 52 nautical miles from Cap Tenis and the eastern Maritime borders<sup>11</sup>.

The Algerian fishing zone was named “Reserved Fishing Zone” ( RFZ)<sup>12</sup>,while it is well established in the international customary law that there are two concepts of fishing zones in the world. They are either fishing zones or preferential fishing rights zones, as it was stated by the international court of justice in the British vs. Iceland fisheries jurisdiction case of 1974<sup>13</sup>.

By the establishment of a reserved fishing zone the Algerian legislator extended sovereignty to living resources in the maritime spaces out of national jurisdiction up to a limit of 32n.m in the west and 52n.m in the east<sup>14</sup>.The law fixing the general rules on fishing forbids foreign fishing vessels from fishing in the waters under national jurisdiction, including the RFZ<sup>15</sup>.

By that time the Majority of Mediterranean coastal states have promulgated laws establishing EEZs or derivative zones, such as fishing zones or protection zones along their Mediterranean coasts. We can divide those countries into two groups. States bordering the

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<sup>8</sup>[https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en](https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en)

<sup>9</sup> Legislative decree n 94/13 of 28<sup>th</sup> may 1994 on fishing general rules, Official Gazette n 40m 22 June 1994.

<sup>10</sup> Presidential Decree n 04/344 of 6<sup>th</sup> November 2004, Official Gazette n 70 of 7<sup>th</sup> November 2004.

<sup>11</sup> Article 5 para.5 of Legislative Decree 94/13.

<sup>12</sup> Article 6 of legislative decree 94/13.

<sup>13</sup> See ICJ-CIJ.org/eng/case/55.

<sup>14</sup> Article 1 para.3 and article 6 para.3 of legislative decree 94/13.

<sup>15</sup> Article 11 para.1 of legislative decree 94/13.

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Mediterranean sea only, namely Albania, Algeria, Croatia, Cyprus, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Slovenia, Syria and Tunisia, have all issued laws creating maritime zones adjacent to their territorial seas, either EEZs or fishing zones, which certainly would lead to the establishment of exclusive economic zones since those countries do not have access to other seas<sup>16</sup>.

In fact the majority of these states have declared that they instituted their own EEZs such as Lebanon through decree n 6433 for the delineation of boundaries of the EEZ, and lodging of its coordinates of that EEZ with the UN on 14<sup>th</sup> July 2010. Or such as Syria which established an EEZ by law n 28 of 19<sup>th</sup> November 2003.

The other group of Mediterranean states who have access to other seas or oceans, namely, Egypt, France, Israel, Morocco and Spain, have also their own legislations which provide for the establishment of EEZs or derivative zones<sup>17</sup>.

In 2001, law n 1/11 related to maritime fishing and aquaculture<sup>18</sup>, was promulgated and the legislative decree 94/13 was abrogated entirely except article 6 related to RFZ<sup>19</sup>, which was maintained. This new law brought a new organization for fishing operations, but the regime of the RFZ was kept as adopted by legislative decree 94/13.

The establishment of a RFZ since 1994 did certainly not replace all the benefits that an EEZ regime would offer, since the RFZ is no more than a derivative zone which is limited to the exploration, exploitation and conservation of living resources only. If we consider, geographically speaking, that Algeria is a disadvantaged Mediterranean state, that have no significant continental shelf, then the establishment of an exclusive economic zone would have overcome, at least partly, this disadvantage.

Article 56 of the 1982 convention on the law of the sea states that:

“In the exclusive economic zone, the coastal state has:

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<sup>16</sup>See the report on Costs and Benefits from the establishment of Maritime zones in the Mediterranean Sea, Op. Cit., P. 60.

<sup>17</sup>Ibid.

<sup>18</sup>Law n.1/11 of 3<sup>rd</sup> July 2001 related to fishing and aquaculture, Official Gazette n.36 of 8<sup>th</sup> July 2001.

<sup>19</sup>Article 104 of law n.1/11.

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a- Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non- living, of the waters superjacent to the seabed and of the seabed and its sub soil, and with regard to other activities for the economic exploitation of the zone, such as the production of energy from the water, currents and winds;

b- Jurisdiction as provided for in the relevant provisions of this convention with regard to:

(i) The establishment and use of artificial islands, installations and structures;

(ii) Marine scientific research;

(iii) The protection and preservation of the marine environment.’’<sup>20</sup>

It is clear from this article that the RFZ is no more than a derivative zone from the EEZ.

### **Reasons for the establishment of an Algerian EEZ**

As far as Algeria is concerned, the dramatic fall in oil prices in the international market, along with the decrease in oil and gas production, had a great impact on national income in hard currency, in the moment where more than 90% of the national income comes from hydrocarbons export. On the other hand, the increase of domestic consumption of energy has again another effect in the reduction of quantities of oil and gas to be exported abroad<sup>21</sup>. For these reasons, Algeria was under the obligation to increase its reserves of oil and gas by exploring new fields either inland or offshore.

The Mediterranean sea is a hydrocarbon and natural gas giant, vastly underexplored, with some of the world’s most Important and fascinating discoveries<sup>22</sup>. In 2015 Egypt made a massive discovery of gas in the Zohr field off Egypt’s coast by Italian energy firm Eni, with an estimated gas reservoir of over 30TCT<sup>23</sup>. Turkey is also drilling for gas in the eastern

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<sup>20</sup>Article 56 para.1 of the 1982 convention on the law of the sea.

<sup>21</sup>It was estimated in 2015 that the Algerian production of energy ( gas and oil) reached 155 million tons, 100 million tons were exported and 55 million tons were consumed locally. See Kamal Ait Cherif, Maitrise de la consommation nationale d’énergie; Quelle Strategie Adopter, [www.algerie-eco.com/2016/10/11](http://www.algerie-eco.com/2016/10/11). Visited 04th November 2019.

<sup>22</sup>See Algeria oil and gas summit 2019, [www.algeria-summit.com](http://www.algeria-summit.com).

<sup>23</sup>Ibid.

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Mediterranean.<sup>24</sup>as well as Cyprus, Greece, and Israel are all exploring for gas and oil in the Mediterranean sea. Therefore, Algeria launched several studies to assess Algeria's potential in offshore and unconventional resources, through its National Agency for Hydrocarbon Resources Development (ALNAFT).<sup>25</sup>

As many states have taken steps to explore and exploit oil and gas in the Mediterranean sea, Algeria certainly has the same needs to explore the maritime zone under national jurisdiction for those resources of energy in order to face the increasing demands for oil and gas supplies on the internal and international levels, and to honor its commercial agreements with its foreign customers.

For these reasons, the establishment of an exclusive economic zone was necessary and urgent in order to limit the areas where future operations of exploration will take place, in accordance with the rights and jurisdictions recognized by international law to all coastal states. That is why in 2018 the Algerian legislator issued presidential decree n.18/96 of March 2018 establishing an exclusive economic zone along the Algerian coast.<sup>26</sup>and immediately deposited a list of geographical coordinates of points, pursuant to article 75 para.2 of the convention on the law of the sea on the 4<sup>th</sup> April 2018<sup>27</sup>.

This article is very important in the sense that it leaves the door wide opened for negotiations with neighboring states to overcome any future dispute that might arise, as it is happening those days between Turkey, Greece, Cyprus, Egypt and Libya after the Turkish/Libyan agreement delimitating the maritime borders between the two countries<sup>28</sup>.

Presidential decree 18/96 comprises only 4 articles. The first one states that it is instituted an exclusive economic zone along the Algerian coasts<sup>29</sup>. The limits of which,

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<sup>24</sup>See Khaled Kessaba and Kostontinotos Lagos, Five Countries in the Eastern Mediterranean are shaking up Europe's Energy Map. <https://theconversation.com/five-countries-in-the-eastern-mediterranean-are-shaking-up-europes-energy-map-119619>. Visited 4th November 2019, 14:30.

<sup>25</sup>See Algeria Press Service, Hydrocarbons: ALNAFT Launches Studies to Assess Unconventional, Offshore Potential, 31st January 2018.

<sup>26</sup>Official Gazette n.18 of 21<sup>st</sup> March 2018.

<sup>27</sup>See M.Z.N.135.2018.LOS( notification zone maritime) un.org/depts..

<sup>28</sup><https://www.reuters.com/article/us-turkey-libya/turkey-signs-maritime-boundaries-deal-with-libya-amid-exploration-row-idUSKBN1Y213I>. Visited 1st December 2019, 11:00 am.

<sup>29</sup>Article 1 para.1 of presidential decree 18/96.

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between opposite and adjacent neighboring states, were fixed by the second paragraph of article 1 and article 2. It is mentioned in paragraph 2 that the outer limits of the EEZ are measured from the baselines fixed by decree n.84/181 of 4<sup>th</sup> August 1984 and expressed in the World Geographic System (WGS 84). It also stated in article 2 that those limits may be subject to modification where appropriate, in the context of bilateral agreements with states whose coasts are adjacent to or facing the Algerian coasts.

Article 3 deals with the sovereign rights and jurisdictions which will be exercised with conformity with the dispositions of the United Nations' convention on the law of the sea, especially with part 5 of that convention. But this article did not enumerate or nominate what these rights and jurisdictions are. Instead, it makes reference to those rights and jurisdictions enumerated in the UN convention on the law of the sea, and particularly part 5.

We can easily say that presidential decree 18/96 establishing an EEZ along the Algerian coasts came to show the intention of Algerian authorities to establish an EEZ without giving any details on the types of rights and jurisdictions to be exercised in this zone since the legal regime of the EEZ is already determined clearly in international law of the sea, especially in part five of the 1982 convention on the law of the sea.

The former decree did not also contain any mention to duties and obligations to be respected by Algeria as a coastal state in this zone. But again I believe that it is sufficient to remind with part five of the convention which deals with rights, jurisdictions and duties of coastal states in their EEZs<sup>30</sup>.

The third remark is that presidential decree 18/96 did not contain any mention to the former Reserved Fishing Zone established in 1994 and maintained by the law on fishing and aquaculture rules of 2001. It is not stated explicitly that the RFZ is abrogated or not. But if we bear in mind that the fishing zone is no more than a derivative zone of the EEZ, and therefore the legal regime of the EEZ covers all rights, duties and activities that can be exercised in RFZ, then, the establishment of the EEZ regime can, by its own, realize the purposes which were behind the creation of the RFZ, i.e. promoting, preserving, exploiting and controlling living resources, but it covers also all the rights and jurisdictions on non-living resources and

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<sup>30</sup> Paragraph 2 of article 56 of the 1982 convention states that: "In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention."

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other economic activities and the establishment and use of artificial islands, installations and structures<sup>31</sup>. Despite all of that, there is not any provision in presidential decree 18/96 that abrogates the RFZ regime.

Now we are in front of two legal regimes for the same maritime area i.e. a RFZ and an EEZ. It is quite clear, that the legislator wants to keep the RFZ, which will continue to be governed by the provisions of law 01/11, along with the establishment of an EEZ, which is governed by presidential decree 18/96 and the provisions of part five of the convention of 1982.

The establishment of an EEZ in 2018 was more for exploring, exploiting, conserving and managing non-living resources, namely the resources of oil and gas in the zone. Living resources were not the reason for the establishment of the Algerian EEZ. What supports this view is that presidential decree 18/96 made reference to the 1982 convention and no mention was made to the other important UN document which is The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks<sup>32</sup>.

All foreign and local media, which got interested to the promulgation of Algeria's presidential decree 18/96, have made a link between the instauration of an EEZ along the Algerian coasts and hydrocarbon exploration in the Mediterranean Sea. For instance, the Chinese web site xinhunet.com published on 2<sup>nd</sup> April 2018, an article entitled "Algeria establishes an exclusive economic zone ahead of offshore drilling" and it reported that observers believe that the aforementioned presidential decree pave the way for offshore drilling projects off Algeria<sup>33</sup>.

Moroccan web site 360afrique.com reported: "Algeria establishes an exclusive economic zone along its coast, A way to preserve its part of the Mediterranean wealth,

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<sup>31</sup> See article 56 para.1/b.i.of the 1982 convention on the law of the sea.

<sup>32</sup>Agreement adopted 4<sup>th</sup>August 1995 and opened for signature on 4<sup>th</sup> December 1995m came into force on 11<sup>th</sup> December 2001.

<sup>33</sup>See Yuru, Editor,xinhunet.com/English/2018-04/2/c\_13708143html. Visited 17<sup>th</sup> November 2019.

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notably hydrocarbons”. It also linked this event with the recent discovery by Egypt of a big gas reserve in the Mediterranean Sea<sup>34</sup>.

The Algerian electronic newspaper TSA published in the same period an article entitled:” Algeria Institutes an Exclusive Economic Zone off its Coasts”, and the author of the article added that Algeria gets ready to launch drilling along its coasts<sup>35</sup>.

Since the adoption of presidential decree 18/96, the National Hydrocarbon Company SONATRACH, has signed contracts with foreign companies to undertake exploration for hydrocarbons activities along the Algerian coasts with the Italian company ENI and the French company TOTAL on 29<sup>th</sup> October 2018, during the Algeria future energy summit.

Chief Executive Officer of the company ENI said upon signature of the agreement that: “Together with SONATRACH and TOTAL, we will have the opportunity to explore the deep waters of the Algerian offshore, a virtually unexplored geographical province where ENI will be able to contribute by leveraging its experience in the eastern Mediterranean and its inventory of advanced exploration technologies”<sup>36</sup>.

According to Mr. Hachichi, former Chief Executive Officer of SONATRACH, the first exploration well is planned during the first half of 2020<sup>37</sup>.The exploration activities are due to start along the coasts of Bejaia in the east and the coasts of Oran in the west<sup>38</sup>.

As a conclusion we can say that Algeria has established its EEZ after a great number of Mediterranean states have also created their own EEZs or similar zones or have at least concluded agreements with other Mediterranean states to fix their maritime borders, such as

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<sup>34</sup>See Karim Zeidanem L’Algérie :Une Zone Economique Exclusive au Large des Cotes pour l’Exploitation pétrolière. Article published on 2<sup>nd</sup> April 2018 on the web site le 360afrique.com, [www.afrique-le360.ma/algerie/economie/2018](http://www.afrique-le360.ma/algerie/economie/2018). Visited 18th November 2019.

<sup>35</sup>Sonya Lyes,L’Algerie Institue une Zone Economique Exclusive au Large de ses Cotes, de quoi s’agit-il ?,[www.tsa-algerie.com](http://www.tsa-algerie.com).visited 18th November 2019.

<sup>36</sup>World Oil Magazine, ENI ,TOTAL partners with SONATRACH for offshore exploration in Algeria.[www.worldoil.com/new/2018/10/29](http://www.worldoil.com/new/2018/10/29). Visited 18<sup>th</sup> November 2019.

<sup>37</sup>See R.Hachichi, interview with petroleum economist in Abu Dhabi in September 2019. Petroleum-economist.com/articles/corporate/company-profiles/2019/Algeria-talks-on-gas-negotiations. Visited 18<sup>th</sup> November 2019.

<sup>38</sup><https://www.reuters.com/article/us-algeria-energy/four-oil-majors-interested-in-algeria-offshore-drilling-state-agency-idUSKBN1H42UM>

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the agreement between Egypt and Cyprus on 17th February 2003, although this agreement is subject to objection from Turkey<sup>39</sup>, or the agreement between Turkey and Libya which is subject to objection from Egypt, Greece and Cyprus. The exploration for hydrocarbons in the Algerian EEZ would have been more beneficial and easier if it was conducted at the time when oil prices were up and the national income was very high, especially if we consider the financing of those complicated operations which necessitate a great budget and a very complicated technology not available to our country. But as they say its better late than never.

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<sup>39</sup>[https://www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin57e.pdf](https://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin57e.pdf)