CONFERENCE OF PARLIAMENTARIANS OF THE ARCTIC REGION

UN LOS Convention and the extended continental shelf in the Arctic

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Historical background

- Until 20th century sea bed was regarded as international area
- No distinction between continental shelf and deep ocean floor
- Sovereign rights of coastal states were up to 3 M territorial sea
- During the first decade of the century rights over the continental shelf gradually emerged.
The Truman Proclamation 1945

- Resources of the continental shelf belong to the coastal states.

- Continental shelf is water depth of 100 fathoms (600 feet or 200 metres).

- Customary law concerning continental shelf has developed.
Santiago Declaration 1952

- Initiated by Chile, Ecuador and Peru.
- Full sovereignty over the seabed and subsoil up to 200 M.
- Sovereignty over superjacent waters and the air space.
What is Continental Shelf?

According to Article 76(1) of the UNCLOS, continental shelf is:

- Seabed and subsoil of the submarine areas
- Which extends beyond the territorial sea
- Which are natural prolongation of land territory
- Prolongation is up to the outer edge of the continental margin
- Or to a distance up to 200 nautical miles where continental margin does not extend that far
Two criteria:

The Continental shelf extends either:

- to the outer edge of the continental margin

or:

- to 200 nautical miles where the continental margin does not extend that far
What is continental margin?

Article 76(3) states:
The continental margin is:
• the submerged prolongation of the landmass
• which consists of the seabed and subsoil of the shelf, the slope and the rise
• BUT which does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.
The Continental Shelf
General Definition of the Continental Shelf

- Continental shelf (juridical)
- Continental margin
- Shelf
- Sediments
- Slope
- Foot of slope
- Rise
- Deep ocean floor
- Mid-oceanic ridge
- Crust
- Mantle
Foot of the continental slope

• "In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change of gradient at its base”
  (Paragraph 4 (b))

• The CLCS regards the determination of the foot of the continental slope by means of the point of maximum change in the gradient at its base, as the general rule
  (See 5.1.3)
Outer Limit of the Continental Shelf (Article 76 (4)):

- coastal State shall establish the outer limit of the continental margin.
- if the margin extends beyond 200 nautical miles from the baselines.
- But up to what limit?
- Basically by taking two criteria:
  - thickness of sedimentary rock criteria
  - 60 nautical miles from the foot of the continental slope criteria
Determination of the outer edge

Crystalline continental crust

Oceanic crust

Foot of slope

1% of distance to foot of slope

Nautical Miles (M)

Sediments
Second measurement:

Article 76(5)

Two further criteria:
1. Shall not exceed 350 nautical miles
2. shall not exceed 100 nautical miles from the 2500 meter isobath (2500 m. + 100 nm rule)
Article 76(6)

BUT

• on submarine ridges continental shelf shall not exceed 350 nautical miles
• submarine elevations are exception
• submarine elevations are natural components of the continental margin
• submarine elevation include: plateaux, rises, caps, banks and spurs.
Delineation Principles

- Sediment thickness
- 1% of distance to foot of slope
- Foot of the slope
- 2500 m depth
- 350 M
- 200 M
- Baseline
- Land
Article 76 (8):

- Coastal states will delineate their outer continental shelf
- When it goes beyond 200 nm
- Information must be submitted to the Commission on the outer Limits of the Continental Shelf
- The Commission shall make recommendation on the outer limit of the continental shelf
- Outer limit of the shelf shall be final and binding when delineated on the basis of the recommendation
Annex II, UNCLOS (The Commission)

- The Commission will be composed of 21 members
- Members are experts in geology, geophysics or hydrography
- Elected by the parties to UNCLOS from their nationals
- Maintenance of equitable geographical representation
- No less than three members from each geographical region
- Each member serves for five years with possibility to be re-elected
Annex II, UNCLOS

Expenses:

- State party submitting nomination shall bear the expenses of the member while in performance of Commission duty

- Coastal state shall bear the expenses incurred for providing scientific and technical advices given by the Commission member
Annex II, UNCLOS

The Commission may cooperate with the following organization for exchange of scientific and technical information:

- Intergovernmental Oceanographic Commission of UNESCO
- International Hydrographic Organization
- Other competent international organization
Annex II, UNCLOS (Art. 4)

- Submission to the Commission should be as soon as possible

- But no later than 10 years after the Convention entered into force for that state

- 10 years count starts from 13 May 1999 (although the Convention itself entered into force on 16 November 1994)
Annex II, UNCLOS (Art. 5)

- The Commission may work through small group – sub-commission

- Sub-commission is composed of 7 members

- They are appointed in a balanced manner taking into consideration special elements involved in each submission
Annex II, UNCLOS (Art. 5)

Who cannot be member of the sub-commission?

- National of the coastal state submitting the claim who is member of the Commission
- Commission member who has given scientific and technical advices with regard to the delineation
- However, they can participate in the proceedings
- State submitting claim may send representatives without the right of vote
Annex II, UNCLOS (Art. 8)

- There might be disagreement between coastal state and the Commission’s recommendation

- In that case the Commission may ask the coastal state to re-submit the claim by making revision
THE ARCTIC OCEAN FEATURE

- Russia
- Chukchi
- Borderlands
- Mendeleev
- Ridge
- Lomonosov
- Ridge
- Gakkel
- Ridge
- Lomonosov
- Ridge
- Gakkel
- Ridge
- Eurasian
- Basin
- Alpha
- Ridge
- Greenland
- Canada
- Basin
- USA
- Norway
- Iceland
Russian Submission:

- 20 December 2001
- The first submission ever
- LOS Convention entered into force for Russia on 11 April 1997
- The limits of the shelf established by Russia shall be final and binding if done on the basis of these recommendations.
- In June 2002, the commission declared it neither accepts nor rejects the Russian claim.
- The Commission asked Russia to resubmit with further scientific data.
- Russia plans to resubmit the claim, and expects to get the answer by 2010.
Arctic Continental Shelf future delineation

UN Convention of the Seas, Russian submission 2002
МИД России
СХЕМА
границ экономической зоны и континентального шельфа Российской Федерации

Российская Федерация

Условные обозначения:
- граница 200 мильной экономической зоны
- предполагаемая внешняя граница континентального шельфа
- линия разграничения морских пространств, подлежащая определению путем переговоров
- граница морских пространств России, установленная договором или соглашением с сопредельными и противоположными государствами
Reactions:

In response to Russian Claim, Five Countries Sharing Continental Shelf with Russia filed their Objection to the Commission.

The countries are: Canada, Denmark, Japan, Norway and the United States.
Canada in its complaints mentioned that

- it is not in position to determine whether it agrees with the Russian Federation’s Arctic continental shelf submission without the provision of further supporting data to analyse.

- Canada’s inability to comment at this point should not be interpreted as either agreement or acquiescence by Canada.
Canada also wishes to note that any recommendations (on continental shelf beyond 200 miles) by the commission in response to Russian submission are without prejudice to the question of delimitation of the continental shelf between Canada and the Russian Federation.
Reaction from Denmark:

- Denmark was not in a position to form an opinion
- there is absence of a qualified assessment
- this, however, does not imply Denmark’s agreement or acquiescence to the Russian Federation’s submission.
Strong objections came from Both Norway and the US

Norway argues:

- the delimitation of the continental shelf between Norway and the Russian Federation has not yet been settled and is the object of ongoing consultations.

- According to Norway the unresolved delimitation issue in the Barents Sea is to be considered as a “maritime dispute” for the purpose of rule 5(a) of Annex I of the Rules of Procedure of the Commission.
Norway
Svalbard and the Spitsbergen Treaty

• Norway secured sovereignty over the islands and rocks, 39 treaty parties are entitled to exercise rights

• Central question: Does the grant of sovereignty to Norway in the Spitsbergen Treaty negotiated in 1920 include modern maritime zones?

• Norway says it has sovereign rights in the EEZ and on the continental shelf

• Norwegian executive summary says Svalbard generates ECS to the north and not mainland Norway
In the Barents Sea a sizeable area is located beyond 200 nautical miles from the respective baselines of Norway and Russia.

But no part of this area extends beyond 350 nautical miles from the baselines of either of the two coastal states.
According to Article 76 (3) (4) and (5) of UNCLOS the area beyond 200 nautical miles may be considered as being part of the continental shelf still to be delimited by the two coastal states concerned without any need for further scientific or technical documentation.
Since the final location of the continental shelf beyond 200 nautical miles between Norway and Russia has not yet been determined, and since the area in the Barents Sea claimed by Russian Federation is an "area under dispute" Norway consider Russian claim without prejudice to the delimitation of the continental shelf between itself and Russia.
Norwegian Submission:

Submitted Nov 2006

Recommendations received March 2009

Norway Publicly accepted recommendations

There is no agreed boundary between Norway and Russia in the Loop Hole

Gakkel Ridge blocks Norway from a larger ECS in the Arctic Ocean
Norway – Russia
Agreement: Grey Zone
Dispute/Agreement: Loop Hole

Supportive recommendations for both Russia’s and Norway’s submission

Russia Note on Norway submission:
“...the Russian Federation consents...to an examination by the Commission of the Norwegian Submission with regard to the ‘area under dispute’ in the Barents Sea.”

Norway’s Note on Russia’s submission:
“...Norway consents...to an examination by the Commission of the Russian Submission with regard to the ‘area under dispute’ as described above.”
Reaction from the US:

According to the US, submission has major flaws as it relates to the continental shelf claim in the Arctic. According to the US, establishing of outer continental shelf beyond 200 nautical miles depends on:

First, whether adherence to legal criteria has been followed;

Second, whether the geological criteria and interpretations applied, are accepted as valid by the weight of informed scientific opinion.
US argues: There are question of a scientific, technical or financial nature which remained unresolved.
Since the Commission has no competence over questions of baselines from which the breadth of the territorial sea is measured, it should not be perceived as endorsing particular baselines.
Russian submission utilizes the boundary embodied in the *Maritime Boundary Agreement between the US and USSR* of 1990, notwithstanding the fact that the Russian *Duma has not yet approved* the treaty.
Article 76 (3) states that the continental margin comprises the submerged prolongation of the land mass of the coastal State ... It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

Thus, the US contends that Alpha-Mendeleev Ridge System which cover essentially all of the Arctic Ocean, is not a submerged prolongation of the land mass of Russia but a oceanic Iceland-Faroe Ridge.
Similarly Lomonosov Ridge is also a freestanding feature in the deep, oceanic part of the Arctic Ocean Basin, and not natural component of the continental margins of either Russia or any other state.
Russia did not apply the first sentence of Article 76(6) with regard to establishing the outer limit of the continental shelf beyond 200 nautical miles (which is not more than 350 nautical miles).
The Ridge

• Introduction of three categories of ridge-like highs with respect to the generation and maximum extent of the continental shelf:
  – Oceanic ridges situated on the deep ocean floor
  – Submarine ridges in the continental margin
  – Submarine elevations that are natural components of the continental margin
Ridge principles

- Crustal neutrality: ridges to be classified without reference to crustal type
- Geological continuity
- The foot of the continental slope is the fundamental feature used to decide whether a ridge-like high is part of the submerged prolongation of the landmass (continental margin) or belongs to the deep ocean floor
Geological continuity

• The prolongation of the landmass involves the continuity of its characteristics in terms geology throughout the continental margin

• The geological continuity of the continental margin involves both its general geological characteristics and its geological origin and setting
Oceanic ridges of the deep ocean floor

- Situated totally outside the continuous foot of the continental slope envelope
- Shares characteristics and origin with the deep ocean floor
- The deep ocean floor to be understood in the sense of the Convention
Oceanic ridges of the deep ocean floor

• A ridge that, along its entire length, is situated beyond the outer edge of the continental margin in the sense of the Convention (§76.4(a)), and shares geological characteristics and origin with the deep ocean floor.
Oceanic ridges of the deep ocean floor
Oceanic ridges of the deep ocean floor 2

- The deep ocean floor part of a ridge that lies beyond the foot of the continental slope envelope and extends into the deep ocean floor from within the zone between the foot of the slope and the outer edge of the continental margin in the sense of the Convention (§76. 4(a)), and shares geological characteristics and origin with the deep ocean floor.
Oceanic ridges of the deep ocean floor
Ridges of the continental margin

- Ridges and elevations that share the continuous foot of the continental slope of the continental margin are integral parts of the continental margin and contribute to the outer edge of the continental margin envelope (§76.4 (a))
Ridges of the continental margin
Submarine ridges and elevations of the continental margin

• The submarine ridges and elevations of §76.6 are integral parts of the continental margin and contribute to the configuration of the outer edge of the continental margin.

• The submarine elevations of §76.6 are natural components of the continental margin.

• The submarine ridges of §76.6 are not natural components of the continental margin.
Submarine elevations of §76.6

- Morphological feature of the continental margin "such as its plateaux, rises, caps, banks and spurs"

- Natural component of the continental margin by sharing the geological characteristics and origin with the continental margin along its entire length
Submarine ridges of §76.6

- The submarine ridges should be distinguishable from the submarine elevations that are natural components of the continental margin.

- The submarine ridges should be distinguishable from the oceanic ridges situated within the deep ocean floor.
Thank you for your attention!