National Maritime Claims in the Arctic

Changes in the Arctic Environment and the Law of the Sea
The 33rd COLP Conference
Seward, Alaska
May 21, 2009

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Where is the Arctic?

Land and water above the Arctic Circle?

Include the Bering Sea and Aleutian Islands?

All of Greenland and the Faroe Islands?

Bioregions (treeline, where permafrost begins, isotherm, etc)?

Where is the Arctic Ocean?

Definition adopted by IHO in 1953?

Neither has a definitive and obvious extent. The United States has an interest in not subscribing to one particular definition for all purposes. Rather each definition serves its own purpose.
Arctic Geography 101

Smallest of the world’s oceans
• ~3% of the world’s ocean by area
• ~1% by volume

The geologic and legal continental shelf occupies a much higher proportion of the Arctic Ocean than any other ocean

5 States abut the Arctic Ocean:
• Canada
• Denmark
• Norway
• Russia
• United States

3 more States with land above Arctic Circle
• Iceland
• Sweden
• Finland
Each of the five States bordering the Arctic Ocean have claimed an EEZ.

Outer limit cannot exceed 200 nautical miles.

Sovereign rights over all living and non-living resources in the water column, seabed, and subsoil.

The limits of the EEZ are ambulatory.
Under international law, every coastal State is entitled to a 200-mile shelf automatically.

Some coastal States can define a continental shelf **beyond 200 miles** if the shelf meets the criteria under Article 76.

Coastal State has sovereign rights over the natural resources of the shelf.

The CLCS makes recommendations; CLCS cannot address maritime boundaries.

The EEZ is ambulatory, whereas the continental shelf is “final and binding.”

All 5 Arctic States have an ECS.

All 5 have collected data beyond 350 nautical miles.
Russian Effort

Russian submission made December 2001

4 areas total, 2 in the Arctic

Received supportive recommendations for 2 of the 4 areas. Commission required additional data for the Arctic

Applies 1990 maritime boundary. Russia does not claim anything U.S. could
Norwegian Effort

Submitted Nov 2006

Recommendations received March 2009

Publically 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
ECS off East Coast and in the central/western portion of Arctic

Submission due by 2013

Cooperative effort with Denmark on the Lomonosov Ridge

Cooperative effort with the U.S. in the Canada Basin and on Chukchi Borderland

~1.75 million square kilometers, an area about the size of the Prairie provinces
ECS for five areas: three areas off Greenland and two areas off the Faroe Islands

Submission due by 2014

Claims North Pole
Line of longitude that starts from the terminus of land boundary and intersects with North Pole.

Treaties often used coordinates as a line of allocation to divide land.

Application is varied and not consistent, especially for marine areas. No basis in UNCLOS.

Russia used sector lines in 1916 to stake claims to land and islands discovered and yet to be discovered. Canada used sector line to define fisheries zone in 1997.

U.S. does not accept the application of sector lines for defining maritime zones.
Norway – Russia Agreement: Territorial Sea

Maritime boundary between Norway and Russia in the Varanger Fjord
  • Signed: February 1957
  • Entry into force: April 1957
  • Updated: July 2007

First boundary in the Arctic

Less than 30 nautical miles

Disputed EEZ beyond the end point
Norway – Russia
Dispute: EEZ

Norway claims an equidistance line

Russia claims a sector line

Several disputed polygons created by the two competing claims
Norway – Russia Agreement: Grey Zone
Dispute/Agreement: Loop Hole

Grey Zone
1978 fisheries zone agreement that includes the Loop Hole and part of Norway’s and Russia’s EEZs

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.”
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
Delimitation of the EEZ and continental shelf between Greenland and Svalbard

- Signed: February 2006
- Entry into force: June 2006
Canada – Denmark
Agreement: Continental Shelf Boundary

Delimits continental shelf between Canada and Greenland
  • Signed: December 1973
  • Entry into force: March 1974
  • Amended March 1994

Unilaterally-defined fishing zones match boundary.

~1,450 nautical miles long. Includes gap for Hans Island.

Includes unitization provision.

No delimitation of the EEZ and ECS north of the end point.
Canada – Denmark
Dispute: Sovereignty of Hans Island
Agreement between US & USSR
• Signed: June 1990
• Advice and consent from Senate: Sept 1991
• Provisionally applied: June 1990

Longest maritime boundary in the world.

Two ECS areas in the Bering Sea.

"...the maritime boundary extends north...into the Arctic Ocean as far as permitted under international law."
“…from this point the line of demarcation shall follow the summit of the mountains situated parallel to the Coast, as far as the point of intersection with the 141st degree of West longitude (i.e., Meridian); and, finally, from the said point of intersection, the same meridian line of 141 Degrees shall form in its prolongation as far as the frozen ocean, the limit between the Russian and British Possessions on the Continent of Northwest America.”
Disputed area within EEZ is more than 6,700 square nautical miles

Likely rich in hydrocarbons

Canadian EEZ Claim (141st Meridian)

U.S. EEZ Claim (Equidistance)

Beaufort Sea

U.S. – Canada Dispute: Beaufort Sea

United States

Alaska

Canada
Each of the Arctic countries have drawn straight baselines except for the U.S.
The “Area” consists of the seabed and ocean floor and subsoil thereof beyond the limits of natural jurisdiction (i.e. beyond the outer limits of the continental shelf.)

The Area is administered by the International Seabed Authority.

If Russia, Canada, Denmark, and the U.S. define an ECS beyond 350 nautical miles, there will be two areas likely to remain:

- area beyond both constraint lines in the Canada Basin.
- Gakkel Ridge
Who has sovereign rights over the seabed of the North Pole?

Russian mini sub planted flag in Aug 2007. A technological achievement, but no legal effect.

Any ECS that reaches the North Pole will likely be based on the Lomonosov Ridge and will exceed 350 nautical miles.

Three-way delimitation issue likely among Russia, Canada, & Denmark.

Equidistance-based boundaries favors Denmark over both Russia and Canada.

North Pole has no legal relevance for determining a boundary.
Questions?
Backup
Maritime and Continental Shelf Boundaries
What are the rules?

Maritime boundaries are needed where:
• There are overlapping maritime zones of two States with opposing coasts
• The coasts of two States are adjacent to each other

Different rules for:
• Territorial sea (Article 15)
• EEZ and continental shelf (Articles 74 & 83)
Paragraph 4:
4(a)ii – FOS + 60M
4(a)i – FOS & sediment thickness
Article 76: Paragraph 5
Constraints to the ECS Limit: Two Options

Paragraph 5:
Max 1: 350 nm from baselines OR
Max 2: 2,500 m isobath plus 100 nm
Areas of Agreement

Canada – Denmark (Greenland)
   Continental shelf, 1973 treaty
Denmark (Greenland) – Norway (Svalbard and Faroe Islands)
   EEZ, 1979 treaty
   EEZ, 1993, ICJ decision
Norway – Russia
   Territorial Sea, 1957 treaty
U.S. – Russia
   Territorial sea, EEZ, continental shelf, 1990 treaty

Areas of Dispute

Canada – Denmark (Greenland)
   Sovereignty of Hans Island
   EEZ (south of Alert), EEZ and Continental shelf (north of Alert)
Canada – U.S.
   Territorial Sea, EEZ, and ECS in Beaufort Sea/Arctic Ocean
Denmark (Greenland) – Norway (Svalbard)
   EEZ
Norway – Russia
   EEZ and Continental shelf
**Territorial Sea**

- **Baseline**: Sovereignty extends to the air space, water column, seabed and subsoil allowing for the right of innocent passage.

**Contiguous Zone**

- Limited enforcement zone (12M-24M), where countries have rights over the waters adjacent to their territory.

**Exclusive Economic Zone**

- **Sovereign rights**: for exploring, exploiting, conserving and managing living and non-living resources of the water column and underlying continental shelf.

- **Scale of Rights**:
  - **Territorial Territory**: Sovereign rights to the water column and continental shelf.
  - **Contiguous Zone**: Limited enforcement zone, 12M-24M.
  - **Exclusive Economic Zone**: 200M, rights to living and non-living resources.
  - **The Area**: Beyond 200M, no national rights.
  - **The High Seas**: Water column beyond national jurisdiction.

**Continental Shelf**

- To 200M inherent sovereign rights for exploring and exploiting non-living resources of seabed and subsoil, plus sedentary species.

**The Area**

- Seabed and subsoil non-living resources administered by the International Seabed Authority.

**The High Seas**

- Water column beyond national jurisdiction.

- To a maximum of 350M from the TSB or 100M beyond the 2,500m isobath, whichever is the greatest.
Lease Blocks (Beaufort Sea)

No lease blocks in disputed area with Canada

Blue block are existing leases
PETROLEUM RICHES

Energy companies are leasing blocks, drilling test wells, and producing oil and gas in areas that the Arctic countries already control. When successful claims expand those countries' territories northward, new wells may further tap the deposits that began to form in the ocean more than 100 million years ago. An estimated 90 billion barrels of oil and 1.7 trillion cubic feet of natural gas may yet be discovered above the Arctic Circle, mostly offshore.

See the extent at the end of autumn 2009 was the second smallest on record. Regional weather conditions contributed to a slightly smaller ice cap this summer 2007.

Winds and currents affect the shape of the ice cap. Ice is pushed from Europe toward Canada, down the east coast of Greenland, and eventually into the Atlantic.

More than 400 oil and gas fields have already been discovered within the Arctic Circle.

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[Map showing various oil and gas basins and regions in the Arctic, including Timan-Pechora Basin, Barents Platform, Sverdrup Basin, Beaufort Sea, Chukchi Sea, North Slope, Norwegian Margin, West Greenland—East Canada, and Arctic Circle.]
Area 1 is claimed by Norway as an economic zone. It is agreed upon to consider this as open sea as long as the "Grey Zone" agreement lasts. Area 2 and 3 are treated as Russian as long as the agreement lasts.

I: Norwegian area
II: Disputed area. The Median line will make the area Norwegian, the sector-line will make it Russian (52° east).
III: Russian area

Note: The map illustrates a fishing protection zone controlled by Norway and a grey zone disputed between Norway and Russia.