



## U.S. Reaction to Russian Continental Shelf Claim

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## LAW OF THE SEA AND INTERNATIONAL WATERWAYS

*U.S. Reaction to Russian Continental Shelf Claim*

In the UN Convention on the Law of the Sea, the “continental shelf” is legally defined as comprising the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory to the continental margin’s outer edge.<sup>1</sup> If that natural prolongation falls short of 200 nautical miles from the baselines, the legal continental shelf is regarded as nevertheless continuing up to 200 nautical miles from the baselines. If the natural prolongation exceeds 200 nautical miles from the baselines, the coastal state’s legal continental shelf continues until the natural prolongation ends, but under no circumstances may it exceed either (1) 350 nautical miles from the baselines or (2) 100 nautical miles beyond the 2,500 meter isobath (a line connecting the depth of 2,500 meters).<sup>2</sup> In determining where the natural prolongation ends, the coastal state may either develop a line based on the thickness of the sedimentary cover within the outer limit of the continental shelf<sup>3</sup> or, alternatively, based on a distance of 60 nautical miles from the foot of the continental slope.<sup>4</sup>

Where the continental shelf extends beyond 200 nautical miles, it is left to the coastal state, in the first instance, to delineate the outer limits of the continental shelf.<sup>5</sup> The Convention provides, however, that by no later than ten years after a coastal state becomes a party to the Convention,<sup>6</sup> the coastal state shall submit oceanographic information relevant to the limits of its continental shelf to a twenty-one person “Commission on the Limits of the Continental Shelf” established under the Convention. The commission reviews the information and then makes recommendations to the coastal state regarding the delimitation of the continental shelf. If the coastal state establishes its continental shelf on the basis of those recommendations, then the recommendations are “final and binding.”<sup>7</sup>

On December 20, 2001, the Russian Federation proposed outer limits of its continental shelf, thereby becoming the first state to submit such information to the commission.<sup>8</sup> The commission distributed the details of Russia’s submission to all UN member states so as to make known to them the proposed outer limits. The United States, which was one of the five states that responded with position papers, asserted that the Russian “submission has major flaws as it relates to the continental shelf claim in the Arctic.”<sup>9</sup> The United States claimed that Russia had provided insufficient information to assess the positions of the 2,500 meter isobath and the foot of the continental slope in the Arctic. The United States also noted that the Convention provides that the continental margin “does not include the deep ocean floor

<sup>1</sup> UN Convention on the Law of the Sea, *opened for signature* Dec. 10, 1982, Art. 76(1), 1833 UNTS 397 [hereinafter LOS Convention]. Geologically, the seabed that slopes away from the coast typically consists of, first, a gradual slope (the continental shelf proper), then a steep slope (the continental slope), and then a more gradual slope leading to the deep seabed floor. These three areas are collectively known as the continental margin.

<sup>2</sup> *Id.*, Art. 76(5).

<sup>3</sup> The thickness must be at least 1 percent of the distance from the foot of the continental slope.

<sup>4</sup> LOS Convention, *supra* note 1, Art. 76(4).

<sup>5</sup> *Id.*, Art. 76(7).

<sup>6</sup> This time limit was altered by a decision of the meeting of the Convention parties in May 2001, so that no state is required to submit information prior to 2009.

<sup>7</sup> LOS Convention, *supra* note 1, Art. 76(8) & Annex II. The Convention does not expressly indicate whether delimitations *not* based on the Commission’s recommendations are to be regarded as invalid.

<sup>8</sup> See Receipt of the Submission Made by the Russian Federation to the Commission on the Limits of the Continental Shelf, Ref. No. CLCS.01.2001.LOS (Dec. 20, 2001). For an executive summary, maps, and other information submitted by the Russian Federation, see <[http://www.un.org/Depts/los/clcs\\_new/commission\\_submissions.htm](http://www.un.org/Depts/los/clcs_new/commission_submissions.htm)>.

<sup>9</sup> See United States of America: Notification Regarding the Submission Made by the Russian Federation to the Commission on the Limits of the Continental Shelf, Ref. No. CLCS.01.2001.LOS/USA (Mar. 18, 2002) (attaching the U.S. submission dated February 28).

with its oceanic ridges,"<sup>10</sup> and yet the Russian claim included the Alpha-Mendeleev Ridge System as part of its continental shelf. The United States explained:

Mounting geologic and physical evidence indicates that the Alpha-Mendeleev Ridge System is the surface expression of a single continuous geologic feature that formed on oceanic crust of the Arctic Ocean basin by volcanism over a "hot spot." (A "hot spot" is a magma source rooted in the Earth's mantle that is persistent for at least a few tens of millions of years and intermittently produces volcanoes on the overlying earth's crust as it drifts across the hot spot during continental drift.) The Alpha-Mendeleev hot spot was formed by magma that was funneled from a hot spot to the spreading axis that created the Amerasia Basin of the Arctic Ocean 130 to 120 million years ago, and built a volcanic ridge about 35 km thick on the newly formed oceanic crust. Both aeromagnetic and bathymetric data show that the ridge extends entirely across the Arctic Ocean, and that its characteristic aeromagnetic expression ends at the continental margins at both ends and is absent from the adjacent continental shelves. . . . The Alpha-Mendeleev Ridge System is therefore a volcanic feature of oceanic origin that was formed on, and occurs only within the area of, the oceanic crust that underlies the Amerasia Subbasin of the deep Arctic Ocean Basin. It is not part of any State's continental shelf.<sup>11</sup>

In a further statement to the commission in April 2002, the Russian Federation explained the hydrographic surveys and bathymetric mapping that it had undertaken in order to establish the 2,500 meter isobaths on the continental slope and the foot of the continental slope. Further, Russia detailed the methods for deep seismic sounding and seismic reflection that led it to regard the Alpha-Mendeleev Ridge System as part of the continental margin. It stated, in part: "The integrated interpretation of the deep seismic sounding and seismic reflection sounding . . . provided data on the velocity characteristics, layering and thickness of the earth's crust which are characteristic of a continental-type crust. This conclusion is consistent with generally accepted concepts."<sup>12</sup>

After receiving these materials, the commission created a subcommission (comprising seven commission members) to review the materials. The subcommission met several times during the spring of 2002, requesting additional materials as needed from the Russian Federation, and then reported its findings to the commission. In June 2002, the commission by consensus adopted final recommendations for transmission to Russia—which, among other things, asked the Russian Federation to make a revised submission in respect of its extended continental shelf in the Central Arctic Ocean.<sup>13</sup> The commission's deliberations and, pending the response of the submitting state, its recommendations are considered confidential.<sup>14</sup>

## HUMAN RIGHTS

### *U.S. View on Pursuing a Torture Convention Protocol on Preventive Visits*

The UN Torture Convention<sup>1</sup> was adopted in 1984 and entered into force in 1987. In 1992, the Commission on Human Rights adopted a resolution establishing an open-ended working

<sup>10</sup> LOS Convention, *supra* note 1, Art. 76(3).

<sup>11</sup> See United States of America: Notification Regarding the Submission Made by the Russian Federation to the Commission on the Limits of the Continental Shelf, *supra* note 9, attach. at 2.

<sup>12</sup> Statement Made by the Deputy Minister for Natural Resources of the Russian Federation During Presentation of the Submission Made by the Russian Federation to the Commission, Made on 28 March 2002, at 5, UN Doc. CLCS/31 (Apr. 5, 2002).

<sup>13</sup> See Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the Progress of Work in the Commission, para. 33, UN Doc. CLCS/34 (July 1, 2002).

<sup>14</sup> See Rules of Procedure of the Commission on the Limits of the Continental Shelf, Annex 2, Rule 4, UN Doc. CLCS/3/Rev.3 (Feb. 6, 2001).

<sup>1</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *opened for signature* Dec. 10, 1984, S. TREATY DOC. NO. 100-20 (1988), 1465 UNTS 85. On November 20, 1994, the United States became a party to the Convention.