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# Manifest Destiny in the Deep - The United States Claims a Massive New “Extended Continental Shelf” Across Two Oceans

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In late 2023, the United States underwent a massive expansion in territory. Its boundaries grew by approximately one million square kilometres – an area about twice the size of California – all without a shot being fired. Indeed, hardly anyone noticed.

Specifically, on December 19, 2023, the United States Department of State announced the results of its “U.S. Extended Continental Shelf Project”. It declared an expansion in the outer boundaries of the United States continental shelf in numerous regions abutting the coastlines of both the continental United States and the United States Marshal Islands territory.<sup>[2]</sup> Although the U.S. position has parallels to similar extended continental claims made during the last two decades by other countries (notably including Russia), the U.S. position has some unique aspects.

## 1. 1945: Harry Truman Proclaims Sovereignty Over the U.S. Continental Shelf

In geological terms, the “continental shelf” is that part of a continent that is submerged. It is marked by the “continental margin”, an area of shallow water which deepens at the “continental slope”, deepens further with the “continental rise”, and ends at the “abyssal plain”, i.e. the deep ocean floor.

Economically, the continental shelf is hugely significant, as they contain a array of natural resources (particularly hydrocarbons). As a legal matter,

the continental shelf has long been recognized as belonging to the adjoining coastal state. The right of coastal states to claim their adjacent continental shelf was spearheaded by President Harry Truman, who in 1945 proclaimed that the United States possessed exclusive sovereign rights over all continental shelf areas adjoining the various coastlines of the United States.<sup>[3]</sup>

Many states followed suit; others had laid claim to their continental shelf areas prior to the Truman proclamation. By 1958, sufficiently widespread consensus existed for most coastal states to adopt 1958 Geneva Convention on the Continental Shelf, recognizing each state's sovereign rights over the continental shelf and laying out some basic principles by which claims can be asserted and the continental shelf ascertained.<sup>[4]</sup>

The 1958 Convention did not clearly lay out the end point of the continental shelf. Instead, it stated that the continental shelf went to a depth of 200 metres and, “beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas.”<sup>[5]</sup> By its terms, this open-ended criterion “[was] clearly dependent on the technologies available to enable the exploitation of seabed resources”, with the consequence that “continental-shelf limits defined on this basis were potentially susceptible to change over time”.<sup>[6]</sup> Thus, the 1958 Convention, while useful, did not create a robust long-term test for how to delimit the outer points of the continental shelf.

## **2. 1969: The International Court of Justice Articulates the “Natural Prolongation” Principle**

In the mid-1960s, West Germany and two of its neighbors, Denmark and The Netherlands, were seeking to define the boundaries and extent of their respective continental shelves in the North Sea. Having reached an impasse on certain issues, they agreed to submit to the International Court of Justice (“ICJ”) the question of “what principles and rules of international law [were] applicable to the delimitation” of the offshore continental shelf areas that remained in dispute between them.<sup>[7]</sup>

Because the parties' dispute was not wholly governed by the 1958 Convention, the ICJ needed to answer this question as a matter of customary international law. In this regard, the ICJ's holding of most immediate relevance to the parties was its statement that, although the "equidistance principle" could be used in drawing the boundary (i.e. finding the line on which every point is equidistant from the nearest coastal "baselines" of the two neighboring states), the delimitation process also needed to take into account the "particular case" and "all [its] circumstances", applying equitable principles as appropriate.<sup>[8]</sup>

More broadly, the ICJ held that, as a matter of customary international law, all coastal states possessed a fundamental right of sovereignty over their continental shelf areas, because they are a "natural prolongation" of its land territory.

the rights of the coastal State in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist *ipso facto* and *ab initio*, by virtue of its sovereignty over the land, and as an extension of it in an exercise of sovereign rights for the purpose of exploring the seabed and exploiting its natural resources.<sup>[9]</sup>

It is this concept of "natural prolongation" that has animated the rules concerning the outer continental shelf, as formulated at the subsequent United Nations Third Conference on the Law of the Sea, and adopted in 1982 United Nations Convention on the Law of the Sea (the "LOSC").<sup>[10]</sup>

### **3. 1982: The Law of the Sea Convention Creates Rules on How Each Country's Continental Shelf is to be Measured**

International consensus on how to define the limits each country's continental shelf was largely achieved by the terms of the LOSC, adopted at Montego Bay in 1982. This treaty, which has since been ratified by over 160 states, sets out (in Article 76) a restated and codifying definition of "continental shelf". The United States, despite not ratifying the LOSC, accepts Article 76's definition of the continental shelf as reflecting customary international law.<sup>[11]</sup> Yet, although Article 76 does lay out a comprehensive scheme, it bears "a number of uncertainties and ambiguities".<sup>[12]</sup>

Article 76 begins with a general statement that “continental shelf” is “*the seabed and subsoil of the submarine areas that extend beyond its territorial sea*”. It then sets forth rules for measuring each coastal state’s entitlement. It then addresses two basic constituencies.

One constituency is the group of states whose continental shelves are very narrow – i.e. which slope off remarkably close to the state’s coastline. (This, for example, is the case for Chile, which has a relatively narrow continental shelf). These states’ interests are evident in the first limb of Article 76, which provides that a sovereign state’s continental shelf territory may extend ***either***

- throughout the natural prolongation of its land territory to the outer edge of the continental margin”, ***or***
- to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance”.

Thus, for these states whose continental shelf drops off relatively early, the endpoint of their “continental shelf” maritime zone is assured to be 200 nautical miles from the coastline, “regardless of whether the continental shelf margin physically extends that distance offshore or not”.<sup>[13]</sup>

For states that are able to claim an ***extended continental shelf*** – i.e. where the natural prolongation of their coastline, objectively measured, goes beyond 200 nautical miles<sup>[14]</sup> – there are further rules. Article 76 of the LOSC permits a state to claim that area, right up to the “outer edge of the continental margin”.<sup>[15]</sup> Article 76 identifies two alternative methods for measuring this limit:

- at 350 nautical miles from the coast;<sup>[16]</sup> or
- at a point where the water depth “exceed[s] 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres”.<sup>[17]</sup>

It is generally understood these are *alternative* maximum points, such that ***“whichever of these cut-off lines is most advantageous to the coastal State***

*may be used*".<sup>[18]</sup> Thus, these rules create the potential for a state's continental shelf to extend way far beyond its coastline, providing the depth of the relevant areas meeting the 2,500 isobath limit.

Even when the continental margin has the attributes that might support an extended continental shelf claim, there are at least two important restrictions on a state's right to make such a claim. The first relates to the rights of neighboring states. The ICJ has held that "under customary international law, a State's entitlement to a continental shelf beyond 200 nautical miles from the baselines from which the breadth of its territorial sea is measured may not extend within 200 nautical miles from the baselines of another State".<sup>[19]</sup> In practical terms, this creates an incentive for states to define their maritime boundaries (either through negotiation or adjudication), in order to be able to exploit undersea resources without fear of a competing claim.

The second restriction is more technical in nature and stems from Article 76's provision regarding "submarine ridges". In this regard, Article 76 draws a distinction between a "***natural submarine elevation***" – i.e. a continuation of the "natural prolongation" of the continent – and "***submarine ridges***" that are separate from the continental shelf. (Examples of the latter might include a mountain range that is largely undersea, but includes island prominences such as Ascension Island, Tristan De Cunha and Saint Helena). In the latter case, Article 76 of the LOSC provides a State may *not* claim an extended continental shelf on the basis of "submarine ridges". The ultimate determination of whether a feature is a "submarine ridge" is the responsibility of the CLCS, based upon its technical and scientific guidelines.

#### 4. **1999: An International "Commission on the Limits of the Continental Shelf" is Formed**

Agreeing on the criteria for measuring the continental shelf is only part of the picture. What is also needed is a system for states to register their claims, plus a reliable means of resolving disputed claims, including boundary disputes.

The LOSC addressed these needs using a time-honored bureaucratic solution: it created a committee – more formally, a "Commission on the Limits of the Continental Shelf", or "CLCS", a 21-person commission of experts in the field of geophysics,

geology, or hydrography, elected from among LOSC states. It provided that, for every case where an extended continental shelf is claimed, a state was required to submit its claims, with supporting technical data, to the CLCS.<sup>[20]</sup>

Although the CLCS, in principle, only makes “recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf”,<sup>[21]</sup> the LOSC provides that, if a state fixes the outer limits of the continental shelf boundaries based on such “recommendations”, they will become “final and binding”.<sup>[22]</sup> And the power of the CLCS is not to be underestimated. For example, if the CLCS finds that a particular feature is not a “prolongation” of the coastline but rather is a “submarine ridge”, this will potentially defeat the claim. This confers significant practical power on the CLCS: indeed, one author has likened the “submarine ridge” exclusion to a ‘wild card’ that the dealer (not the player) can use – “a coastal state might hold a wild card (a ridge or a submarine elevation) but, at the end of the round, the dealer (the CLCS) has the authority to override the value that the holder has assigned to that card”.<sup>[23]</sup>

At the same time, the CLCS is not empowered to adjudicate boundary disputes *between* states;<sup>[24]</sup> and its Rules of Procedure prohibit it from considering submissions that involve overlapping territorial claims.<sup>[25]</sup> This is a very significant limitation on the CLCS’s powers. It means that boundary disputes need to be directly negotiated between the parties, as the United States did with respect to its Gulf of Mexico and Bering Sea boundaries with Mexico and Russia respectively, or, failing negotiation, submitted for binding adjudication.

Currently, there are several avenues that can be pursued in order to adjudicate maritime boundary disputes:

- The disputant countries can elect to have their case heard before The International Court of Justice in The Hague – which, over the years, has adjudicated numerous disputes over delimitation of continental shelf areas – notably, the 1969 adjudication over the North Sea Continental Shelf,<sup>[26]</sup> and,

more recently, adjudications over disputed maritime areas in the Indian Ocean, the Black Sea and the Caribbean Sea.<sup>[27]</sup>

- The International Tribunal for the Law of the Sea (“ITLOS”), a specialist tribunal based in Hamburg,<sup>[28]</sup> has adjudicated various disputes over states’ continental shelf claims (albeit fewer in number).<sup>[29]</sup>
- As a further alternative, states retain the option of resolving boundary disputes through inter-state arbitration (indeed, for states subject to the LOSC, this is a formalized part of the disputes system). There is a long history of inter-state arbitration of continental shelf disputes, beginning with the oft-cited *Anglo-French Continental Shelf* case,<sup>[30]</sup> and more recently including arbitration awards setting maritime boundaries in the Bay of Bengal (Bangladesh/India)<sup>[31]</sup> and the Adriatic.<sup>[32]</sup>

Nevertheless – and because of the technical issues that can be raised in determining the limits of the continental shelf – there can be situations where a tribunal will refuse to adjudicate a continental shelf claim beyond the 200 nm limit. For example, in the Maldives/Mauritius boundary case, an ITLOS chamber declined to adjudicate a contested boundary issue between the states in question, because it found that there was “significant uncertainty” over whether Mauritius had the ability to claim an extended continental shelf beyond its 200 nm limit, i.e. it was too difficult to determine “the existence of a continental margin beyond 200 nm” in the absence of a binding recommendation from the CLCS.<sup>[33]</sup> Declining to rule in such circumstances, it held, “serves to minimize the risk that the CLCS might later take a different position regarding entitlements in its recommendations from that taken by a court or tribunal in a judgment”.<sup>[34]</sup>

## **5. 2009: Numerous Countries, including Russia, Begin Staking Claims to an Extended Continental Shelf**

Under the rules establishing the CLCS, each of the contracting parties to the LOSC were required to submit their continental shelf claims within 10 years of the

convention coming into force for them.<sup>[35]</sup> For the first 60 states to ratify the Convention, the treaty became effective on May 13, 1999 – meaning that the initial submission deadline was May 12, 2009.

Starting in 2009, therefore, the CLCS received a large number of submissions from countries around the world, indicating a continental shelf claim in excess of 200 nautical miles. Perhaps the most notable has been Russia's claims surrounding the Arctic area – covering the very large expanse of the Russian/Siberian northern Arctic coast.<sup>[36]</sup> Russia's claims, first submitted in the early 2010s and revised in 2015, included the claim that the "Lomonosov Ridge", a long undersea feature, is a prolongation of the Russian northern continental shelf, and not a submarine ridge.<sup>[37]</sup> The stakes involved in that submission were significant: if one treats the Lomonosov Ridge as a natural prolongation of the Russian land mass, then it can serve as a platform for a potentially significant continental shelf claim. If not (i.e. if the Lomonosov Ridge was characterized as a "submarine ridge") Russia would not be so entitled.

Despite this being a potentially controversial issue (and despite concerns being filed by Canada, Denmark and the United States), Russia has been relatively successful to date before the CLCS.

- In February 2023, the CLCS endorsed Russia's position that the Lomonosov Ridge is a natural submarine elevation such that it can generate a claim to continental shelf areas beyond Russia's 350 nm distance line.<sup>[38]</sup>
- In 2023, Russia then made two further submission to the CLCS. One augmented its claim that its continental shelf included the Amundsen Basin (an Arctic Ocean area neighboring the Lomonosov Ridge).<sup>[39]</sup> The CLCS endorsed this position in August 2023.<sup>[40]</sup>
- The other Russian submission, made in October 2023, seeks to claim, as part of its outer continental shelf, another undersea Arctic Ocean feature, the Gakkel

Ridge (this also neighbors the Lomonosov Ridge, and is approximately 800 nm from the New Siberian Islands).<sup>[41]</sup>

Other states also have been assertive in their claims. Within the Antarctic area, Chile, Argentina, and the UK have claimed an extended continental shelf, while in the Asia-Pacific region, Japan, Australia and China have all claimed an extended continental shelf off their respective coastlines.<sup>[42]</sup> France has potentially huge claims covering three oceans, stemming from its territory in Reunion Island, Tahiti and Martinique, as well as its Atlantic coast. Other states with potentially significant claims include South Africa, India, Somalia and Kenya. Many of these issues remain to be resolved by the CLCS, although, as noted, the CLCS does not delimit disputed areas.

## **6. 2023: The United States Declares a Huge “Extended Continental Shelf”**

The United States, not being a member of the LOSC (and thus not bound to submit its claims to the CLCS), has been on the proverbial sidelines of the “extended continental shelf” debates before the CLCS. At the same time, it has its own interests to protect and, on December 17, 2023, published its own unilateral claim to an “Extended Continental Shelf.”

It is not totally clear why the U.S. filed its claim at this time. Presumably, it wanted to preserve its rights and give neighboring states adequate notice of its position. The recent successes of Russia within the CLCS (*see above*) may have played a role.

Significantly, the U.S. announcement stated that “it had determined its ECS limits in accordance with customary international law, as reflected in the relevant provisions of the [LOSC]”,<sup>[43]</sup> thus reaffirming the State Department’s previously-expressed view that Article 76 of the LOSC reflects customary international law. Significantly, the State Department also took the position that its claims were in line with “the Scientific and Technical Guidelines of the [CLCS]”, again further signaling that, while not part of the LOSC, it respects that treaty’s basic road rules of the LOSC system.

The particulars of the claimed U.S. “Extended Continental Shelf” cover seven offshore areas:

- In the **Arctic Ocean, north of Alaska**: a region “bounded by Canada to the east and the Russian Federation to the west”, and “extend[ing] north to a distance of 350 nautical miles (in the east) and more than 680 nautical miles (in the west) from the territorial sea baselines of the United States”.<sup>[44]</sup> This is adjacent to the U.S.-Russia and U.S. Canada maritime boundaries.
- In the Bering Sea, southwest of Alaska and north of the Aleutian Islands: a region “extends to a distance of approximately 340 nautical miles from the territorial sea baselines of the United States” and is bounded by the U.S.-Russia maritime boundary.<sup>[45]</sup>
- In the **Atlantic Ocean, off the Eastern Seaboard**: a region “extend[ing] between 206 and 350 nautical miles from the territorial sea baselines of the United States.”<sup>[46]</sup> At its northern most point this meets the U.S.-Canada maritime boundary and, at the south, it abuts the Bahamas maritime zone.
- In the **Pacific Ocean, off the U.S. West Coast**: a smaller region “approximately 285 nautical miles from the territorial sea baselines of the United States”, which is a bulge of undersea continental shelf near the lateral of the California-Oregon border.<sup>[47]</sup>
- Two relatively small patches of the **Gulf of Mexico**, one in the **Western Gulf** (south of Louisiana) extending slightly below the United States 200 nautical mile mark and bounded by the U.S.-Mexico’s maritime boundary, and one in the **Eastern Gulf** (south of Alabama and Florida), again extending slightly below the United States Nautical mile mark, and bounded by the U.S.-Cuba’s maritime boundary.<sup>[48]</sup>
- A small triangular region north of the **Mariana Islands**, a region extending slightly beyond the U.S. 200 nautical mile mark, and bounded by the U.S.-Japan maritime boundary.<sup>[49]</sup>

In setting these limits, the State Department has acknowledged that these claims may need to be adjusted to accommodate neighboring states' competing claims. According to its "Fact Sheet",

The U.S. ECS partially overlaps with ECS areas of Canada, The Bahamas, and Japan. In these areas, the United States and its neighbors will need to establish maritime boundaries in the future. In other areas, the United States has already established ECS boundaries with its neighbors, including with Cuba, Mexico, and Russia.<sup>[50]</sup>

In the far-flung areas covered by its 2023 declaration, therefore, State Department officials will be busy seeking to agree and delimit its far-flung continental shelf boundaries with Canada, The Bahamas, and Japan.

## 7. **The Future of the Continental Shelf**

Given the ever-present demand for fresh energy supplies, states will likely continue to vigorously press their competing maritime claims, including in respect of the "outer limits" of continental shelf areas. Private actors, in turn, will closely watch the progress and outcome of these various claims, knowing that capital commitments and the fruits of their exploratory work may well hinge not only on the work of the CLCS, but also on the future judgments and awards of international tribunals.

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[1] Partner, Skadden, Arps, Slate, Meagher & Flom LLP, New York. Copyright 2024 by the author. The views expressed in this article are the author's alone, and do not represent those of his firm or its clients.

[2] U.S. Dep't of State, U.S. Extended Continental Shelf (2023), <https://www.state.gov/the-us-ecs/>.

[3] Proclamation 2667—Policy of the United States with Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf, 10 Fed. Reg. 12303 (Oct. 2, 1945).

[4] Convention on the Continental Shelf, 15 U.S.T. 471 (Apr. 29, 1958).

[5] *Id.* art. 1.

[6] Clive Schofield, Securing the Resources of the Deep: Dividing and Governing the Extended Continental Shelf, 33 *Berkeley J. Int'l L.* 274, 279 (2015).

[7] North Sea Continental Shelf Cases (Federal Republic of Ger. v. Den.; Federal Republic of Ger. v. Neth.), 1969 I.C.J. 3. 19, ¶ 13 (Feb. 20).

[8] *Id.* at 48, ¶¶ 87-88.

[9] *Id.* at 22, ¶ 19.

[10] United Nations Convention on the Law of the Sea (Dec. 10, 1982) [hereinafter the “LOSC”].

[11] See *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Can./U.S.), 1984 I.C.J. 246, 294, ¶ 94 (Oct. 12) (noting that the United States had issued public statements accepting that “[the Law of the Sea Convention] generally confirmed existing rules of international law”).

[12] Schofield, *supra* note 6, at 279.

[13] *Id.* This has the virtue of aligning each state’s continental shelf claims with its 200 nm “exclusive economic zone”, which is also codified in the LOSC. *Id.* at 277 n.16.

[14] Article 76 provides that the continental margin can be treated as being longer than 200 nm based upon either: (i) a geological test that looks to the “thickness of sedimentary rocks” in proximity to the continental slope, LOSC, *supra* note 10, art. 76(4)(a)(i) – apparently known as the “Gardiner Line”; or (ii) a test that looks to the distance to the continental slope, *id.* art. 76(4)(a)(ii)–known as the “Hedberg Line.” See Schofield, *supra* note 6, at 279-80.

[15] LOSC, *supra* note 10, art. 76(1) & (4).

[16] *Id.* art. 76(5).

[17] Id.

[18] Schofield, *supra* note 6, at 280 n.29.

[19] Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicar. v. Colomb.), Judgment ¶ 79 (Int’l Ct. Justice July 13, 2023). Thus, Nicaragua’s application for delimitation due to the natural prolongation of its shelf beyond 200 nm was rejected because the proposed outer limit extended within 200 nm of Colombia’s territorial baseline.

[20] LOSC, *supra* note 10, art. 76(8); see also *id.* Annex II—Commission on the Limits of the Continental Shelf, arts. 3-9.

[21] LOSC, *supra* note 10, art. 76(8).

[22] Id.

[23] Ron McNab, Submarine Elevations and Ridges: Wild Cards in the Poker Game of UNCLOS Article 76, 39 Ocean Dev. & Int’l L. 223, 224 (2008).

[24] LOSC, *supra* note 10, Annex II—Commission on the Limits of the Continental Shelf, art. 9 (“The actions of the [CLCS] shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts”).

[25] CLCS Rules of Procedure, Annex I, Rule 5(a).

[26] See *supra*, section 2.

[27] See, e.g., Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicar. v. Colomb.), Judgment (Int’l Ct. Justice July 13, 2023; Maritime Delimitation in the Indian Ocean (Som. v. Kenya), Judgment (Int’l Ct. Justice Oct. 12, 2021; Maritime Delimitation in the Black Sea (Rom. v. Ukr.), Judgment (Int’l Ct. Justice Feb. 3, 2009).

[28] The U.S. is not subject to ITLOS adjudication as it has not ratified the LOSC.

[29] E.g., *Delimitation of the Maritime Boundary Between Ghana and Côte D'Ivoire in the Atlantic Ocean* (Ghana v. Côte d'Ivoire), No. 23, Judgment (ITLOS Special Chamber Sept. 23, 2017); *Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal* (Bangl. v. Myan.), No. 16, Judgment (ITLOS Mar. 14, 2012).

[30] See, e.g., *Delimitation of the Continental Shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic* (U.K v. France) ("Anglo-French Continental Shelf"), Judgment (ad hoc Arb. Trib. Mar. 14, 1978); see also *Second Stage of the Proceedings* (Eri. v. Yemen Maritime Delimitation), 40 I.L.M. 983 (PCA 1999); *Delimitation of Maritime Areas* (St. Pierre & Miquelon), 31 I.L.M. 1145 (Ct. of Arb. For Delimitation of Maritime Areas 1992); *Case Concerning the Arbitral Award of 31 July 1989* (Guinea-Bissau v. Sen.), 31 I.L.M. 36 (Int'l Ct. Justice, 1991); *Delimitation of the Maritime Boundary* (Guinea v. Guinea-Bissau), 25 I.L.M. 251 (1986) (ad hoc Arb. Trib. Feb. 14, 1985).

[31] E.g., *Bay of Bengal Maritime Boundary Arbitration* (Bangladesh v. India), PCA No. 2010-16, Award (LOSC Tribunal July 7, 2014); *Guyana v. Suriname*, PCA No. 2004-04, Award (LOSC Tribunal Sept. 17, 2007); *Barbados v. Trinidad & Tobago*, PCA No., 2004-02, Award (LOSC Tribunal Apr. 11, 2006).

[32] *Croatia v. Slovenia*, PCA No. 2012-04, Final Award (June 29, 2017). This case generated controversy because, while the dispute was pending, one of the arbitrators was caught having unauthorized ex parte communications with a representative of one of the parties. This prompted his resignation (and that of other arbitrators), and led to the tribunal being reconstituted. See T.G. Nelson *Boycotts and Walkouts in International Arbitration*, 15(1) *Transnational Dispute Mgmt.* at 1-2 (Jan. 2018).

[33] *Delimitation of Maritime Boundary Between Mauritius and Maldives in Indian Ocean* (Mauritius v. Maldives), No. 28, Judgment ¶ 431 (ITLOS 2023)

[34] *Id.* ¶ 433. The ICJ took a similar approach in the *Nicaragua/Colombia* case. See *Territorial & Maritime Dispute* (Nicar. v. Colom.), Judgment, 2012 I.C.J. 624 (Nov. 19).

[35] LOSC, *supra* note 10, art. 76(8).

[36] The Russian claim has had some dramatic moments: in 2007, a Russian mini-submarine planted a titanium Russian flag on the seabed immediately underneath the North Pole. See, generally J. Trent Warner, *One Small Step for a Submersible, One Giant Leap for Russian-Kind: An Evaluation of Russia's Claim to the North Pole under International Law*, 57 *Naval L. Rev.* 49 (2009).

[37] See Partial Revised Submission of the Russian Federation to the Commission on the Limits of the Continental Shelf in Respect of the Continental Shelf of the Russian Federation: Executive Summary (2015),

[https://www.un.org/depts/los/clcs\\_new/submissions\\_files/rus01\\_rev15/2015\\_08\\_03\\_Exec\\_Summary\\_English.pdf](https://www.un.org/depts/los/clcs_new/submissions_files/rus01_rev15/2015_08_03_Exec_Summary_English.pdf).

[38] See Comm'n on the Limits of the Cont'l Shelf, Progress of Work in the Commission on the Limits of the Continental Shelf, Item 5, CLCS/57/2 (Apr. 3, 2023) (summarizing February 6, 2023 decision of CLCS to approve Russia's revised submission concerning Arctic Ocean).

[39] See Partial Revised Submission of the Russian Federation in respect of the Continental Shelf of The Russian Federation in the South East Eurasia Basin in the Arctic Ocean: Executive Summary (2023),

[https://www.un.org/depts/los/clcs\\_new/submissions\\_files/rus02\\_rev23/23rusrev2e.pdf](https://www.un.org/depts/los/clcs_new/submissions_files/rus02_rev23/23rusrev2e.pdf).

[40] See Comm'n on the Limits of the Cont'l Shelf, Progress of work in the Commission on the Limits of the Continental Shelf, at 6-7, CLCS/58/2 (Sept. 8, 2023) (summarizing July 5, 2023 decision of CLCS to approve Russia's revised submission concerning Arctic Ocean).

[41] See Partial Revised Submission of the Russian Federation in respect of the Continental Shelf, *supra* note 40.

[42] See generally Submissions, through the Secretary-General of the United Nations, to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea of 10 December

1982, Comm'n on Limits Cont'l Shelf (May 16, 2024), [https://www.un.org/depts/los/clcs\\_new/commission\\_submissions.htm](https://www.un.org/depts/los/clcs_new/commission_submissions.htm) (summarising claims).

[43] Announcement of U.S. Extended Continental Shelf Outer Limits: Fact Sheet, U.S. Dep't State (Dec. 19, 2023), <https://www.state.gov/announcement-of-u-s-extended-continental-shelf-outer-limits-2/>.

[44] The U.S. E.C.S., U.S. Dep't State, <https://www.state.gov/the-us-ecs/> (last visited June 8, 2024).

[45] Id.

[46] Id.

[47] Id.

[48] Id.

[49] Id.

[50] State Dep't Dec. 19, 2023 Announcement, *supra* n. 43.

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