

# Analysis of the dispute over the delimitation of the continental shelf beyond 200 nautical miles in the Arctic Ocean

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**Abstract:** In the 1960s, the Arctic glaciers gradually melted, while the rich mineral and fishery resources in the region triggered a new strategic layout design for the countries around the Arctic Ocean, and countries have started to fight for the rights and interests related to the outer continental shelf of the Arctic Ocean in accordance with the United Nations Convention on the Law of the Sea. As of 2023, Russia, Canada, Norway and Denmark have applied to the Commission on the Limits of the Continental Shelf (CLCS) for delineation of the continental shelf, while the U.S. is also striving for the rights and interests of related resources by virtue of its geographical location. At present, in the case of the uncertainty of the delimitation of the outer continental shelf of the Arctic Ocean by the United Nations, the governance guidelines of the United Nations Convention on the Law of the Sea for the outer continental shelf of the Arctic Ocean are relatively in line with the interests of all countries, but there are also certain practical problems, and the United States and non-Arctic countries are bound to join the competition for the relevant rights and interests, and it is difficult to avoid the relevant situation. In this regard, through improving the working mechanism of the Commission on the Limits of the Continental Shelf and formulating the Arctic Treaty, we can gradually realize the governance of the outer continental shelf in the central waters of the Arctic Ocean and maintain the healthy and benign resource circulation and utilization of the relevant sea areas.

**Keywords:** United Nations Convention on the Law of the Sea; Arctic Ocean; Outer continental shelf; Delimitation

## 1. Status of the dispute

Article 76 of the 1982 United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention") defines the scope of the continental shelf: The continental shelf of a coastal state includes the seabed and subsoil of the seabed area extending beyond its territorial sea over the entire natural extension of its land territory to the outer edge of the continental margin, if the distance from the baselines from which the breadth of the territorial sea is measured to the outer edge of the continental margin is less than 200 nautical miles. If the distance from the baselines from which the breadth of the territorial sea is measured to the outer edge of the continental margin is less than 200 nautical miles, the extension is to a distance of 200 nautical miles.<sup>[1]</sup> The continental shelf extends beyond 200 nautical miles, which is the part covered by the outer continental shelf. The emergence of the new term outer continental shelf was the result of a trade-off between the interests of countries with a wide continental shelf and those with a narrow continental shelf during the Third United Nations Conference on the Law of the Sea. It is because of the special nature of the concept of the outer continental shelf that the Convention has developed a more complex set of rules and regulations for it than for the continental shelf within 200 nautical miles, in this way ensuring that the concept of the outer continental shelf is universally accepted by all countries of the world to the greatest extent possible.<sup>[2]</sup>

The current dispute over the outer continental shelf of the Arctic Ocean involves five main countries: Russia, Canada, Norway, Denmark and the United States.<sup>[3]</sup> Among them, Russia and the United States, as maritime powers, are bound to make a big deal out of the issue, and the analysis of their practices is most representative of the current state of the dispute over the outer continental shelf of the central waters of the Arctic Ocean.

Russia, as the world's largest country in terms of area, has a long and narrow coastline, nearly two-thirds of which is located in the Arctic Ocean, accounting for more than 50% of the total length of Russia's

coastline, which is Russia's biggest advantage in the Arctic Ocean outer continental shelf delimitation dispute. Russia's outer continental shelf delimitation claim involving the central Arctic Ocean relies primarily on one full application, one revised application, and two addenda to the scientific evidence to be submitted in 2021. In 2001, Russia filed its first application for the delimitation of the outer continental shelf of the Arctic Ocean, with the Lomonosov and Alpha Mendeleev Ridges in the central waters of the Arctic Ocean at the centre of the dispute. After six months of deliberation, the commission concluded that Russia's description of the geology of the seabed in the Central Sea of the Arctic Ocean was unclear and that the geological and geophysical data provided did not prove the natural extension of the Alpha Mendeleev and Lomonosov Ridges in relation to Russian land territory. In 2015, Russia made corrections to its first submission, and compared to its first submission, the extent of the outer continental shelf claimed by Russia after scientific examination and geographical survey is the same as in the first submission, which makes one wonder whether this is the result of scientific examination by the academy of sciences or the federal government.<sup>[4]</sup> Consideration of the substance of the submission The claim for the outer continental shelf has been expanded by the 2021 addendum to the evidence, which has further obscured the trend in the delineation of the outer continental shelf in the central Arctic Ocean.

Although the United States is not a party to the Convention to date and is not eligible to submit an application to the Commission on the Limits of the Continental Shelf for delineation of the outer continental shelf of the Arctic under the Convention, the presence of the State of Alaska gives the United States an interest in the issue of the outer continental shelf of the Arctic, and in all four applications submitted by Russia, Denmark, Norway and Canada for the central sea of the Arctic Ocean, the United States has sent diplomatic notes and repeatedly commented on the substance In all four applications submitted by Russia, Denmark, Norway and Canada for the central sea of the Arctic Ocean, the United States issued diplomatic notes and repeatedly commented on the substantive scientific evidence.<sup>[5]</sup> The United States is not only obstructing the delimitation of the outer continental shelf of the Arctic Ocean based on the Cold War mentality, but is also treating Canada, Denmark and Norway, which are also allies, equally when it comes to the delimitation of the outer continental shelf of the Arctic Ocean.

## **2. Governance dilemma**

The governance mechanism of the outer continental shelf of the Arctic Ocean relies on the Convention and its operating machine, the Commission on the Limits of the Continental Shelf, to function passively. The conflict over its delimitation is not only a geopolitical issue, but also a question of the ownership of important resources such as military, mineral deposits and shipping, and it is difficult to reach definitive conclusions between countries driven by the above interests, which also means that the current governance mechanism suffers from the dilemma of fragmentation and weakness.

### ***2.1 The working mechanism of the Commission on the Limits of the Continental Shelf needs to be upgraded***

The Commission on the Limits of the Continental Shelf is a subordinate body established under the Convention for the purpose of resolving disputes over the delineation of the continental shelf, and its work is mainly to consider information on technical data related to the limits of the outer continental shelf submitted by States as well as national claims, and to make recommendations based on the provisions of the Convention and the actual geographical situation.<sup>[6]</sup> At the time of its establishment, the Assembly of States Parties considered the workload of the commission to be predictable, but the current progress in the delineation of the outer continental shelf suggests that the future consideration of submissions before the commission will be long and arduous. Most coastal states have interpreted the relevant rules and provisions of the Convention in an expansive manner in order to maximize the extent of their continental shelf, and as submissions and deliberations on the outer continental shelf progress, new scientific and legal issues arise, and the Commission on the Limits of the Continental Shelf reveals a number of problems in the course of its work, such as the lack of necessary and effective oversight and accountability bodies, non-transparent and open information on deliberations, and inefficient processing by the commission. As an international body with authority and certainty in decision-making, these problems need to be rectified and improved.

### ***2.2 Limits to the effectiveness of the United Nations Convention on the Law of the Sea***

The Convention is a normative and guiding document for the harmonisation of sovereign relations in the international territorial sea, providing a detailed and stable legal basis and procedural means for

dealing with conventional maritime delimitation issues. Given the fluctuating international situation and the fact that the issue of sovereignty over maritime territories involves the vital interests of states and the attribution of resources, the compromising nature of the Convention means that it can only give precise delimitation solutions in recognised cases of a conventional nature. For countries with a wide continental shelf, there is no overlapping and interlocking outer continental shelf between countries and the existing outer continental shelf provisions of the Convention are sufficient to resolve their maritime delimitation issues. [7] The Arctic Ocean is a narrow and enclosed area, surrounded by three continents and with many neighbours in the sea. The Convention does not define the part of the coastline within 400 nautical miles where there is an overlap between the two countries with mandatory effect, and advocates a beneficial conclusion in accordance with the principle of equity and the principle of natural extension in the consultation and discussion between the relevant interested countries, which means that the countries with superior scientific and technological conditions and strong national power are in control of the outer Arctic Ocean to a certain extent. This means that the countries with superior scientific and technological conditions and strong state power are to a certain extent in control of the discourse on the delimitation of the continental shelf, and that the conflict of state philosophies is also a key factor in the continuous shelving of the delimitation issue, and that, given the limitations of the Convention, it is reasonable for states to negotiate a separate compromise peace treaty.

### **3. Dispute resolution routes**

The complex interests and resources involved in the outer continental shelf of the central Arctic Ocean have led to negotiations between countries being largely stalled, and a series of practical measures are proposed for consideration, taking into account the current international system and the vision of each country for the development of the Arctic region.

#### ***3.1 Improving the working mechanisms of the Commission on the Limits of the Continental Shelf***

The Commission on the Limits of the Continental Shelf, as a neutral body with a binding role, is the best way to achieve a minimum of external influence and to give full play to its functions. It is recommended that a standardized system of remuneration scales and procedural control be established, and that the provision in article 2, paragraph 5, of annex II to the Convention, whereby states parties bear the costs of members, be adjusted or amended in order to alleviate the lack of accountability. The committee should ensure that the state secrets of the applicant countries are maintained while publishing the application documents, response notes and other non-confidential information through its official website and bulletin in due course, and refine, quantify and specify the committee's deliberative system, so as to ensure the transparency and impartiality of the committee's work. On the other hand, the commission is a purely reactive body, waiting for the submission of supporting documents by the applicant State and the evidence of objections by the disputing State, and it is easy to see that the commission often gives negative answers to technical questions that are difficult to judge. [8] The reactive nature of the body and the procedural lag are undeniable. But there may be some room for change in the "no-action" nature of the review. To alleviate this situation, two areas of support are needed: financial and human resources. Firstly, as most of the commission's staff are currently working on a part-time basis, consideration could be given to increasing the salaries of commission members to incentivise them to work in the interests of the commission, to weaken their reliance on private capital, and to give commission members higher social status and international positions to promote a professional, full-time structure for commission members. Secondly, by attracting more technical and legal experts through policy and capital support, the commission will be able to solve the problem of staff shortage and enhance the scientific and stability of decision-making. This, of course, will require financial support.

#### ***3.2 Balancing the interests of states in an Arctic Treaty in the light of the Antarctic Treaty***

On December 1, 1959, 12 countries, including Argentina, Australia and Belgium, signed the Arctic Treaty, the product of a compromise made in the 1960s to balance the interests of all countries and maintain the overall security of mankind, which stipulates that Antarctica is to be used only for peaceful purposes, promotes freedom of scientific research in the Antarctic region, promotes international cooperation in scientific research, prohibits in the Antarctic. It prohibits all activities of a military nature and nuclear explosions and the handling of radioactive materials in the Antarctic region, freezes current territorial claims, and promotes international cooperation in science. The Antarctic Treaty, with its temporary freeze on Antarctic sovereignty in a complex international situation and increasing environmental pollution, provides a good example of how the Arctic issue can be addressed:

1) Achieving peace and stability in the Arctic Ocean waters. With a long tradition of military activity in the Arctic Ocean, where the US and Russia have been conducting military exercises since the Cold War, the Arctic Treaty should be designed to restore relative stability in the Arctic Ocean waters and work towards a trend of denuclearisation and non-militarisation.

2) Achieving normative governance for the development of outer continental shelf resources in the central Arctic Ocean. The Arctic Treaty can suspend the delimitation of the outer continental shelf in the central waters of the Arctic Ocean and freeze the division of resources in the Arctic Ocean for a certain period of time. Such a provision would not only reconcile the interests of all countries, but also reduce the damage to the ecological and geological environment of the Arctic Ocean caused by disputes over the outer continental shelf in the circumpolar Arctic Ocean countries. [9] Of course, this approach presupposes that the rights of the Arctic Ocean coastal states are guaranteed in the normal rules governing the continental shelf and the exclusive economic zone.

3) Develop a series of guiding principles in the areas of environmental protection, disputes, tourism, aboriginal affairs, etc. The Arctic Treaty was originally intended to be a joint treaty for a comprehensive environmental management regime for the Arctic that would apply in the long term and address Arctic Ocean issues, and to establish a regime that would include responsibility for a wide range of marine activities based on the activities of states in the Arctic Ocean waters, rather than being left to the discretion of states. Furthermore, given that both the Antarctic and the Arctic are "the common heritage of all mankind" the Arctic Treaty should consider opening up limited areas for specific areas such as scientific research from a completely new perspective.

#### 4. Conclusion

The delimitation of the outer continental shelf of the Arctic Ocean is currently a complex geopolitical topic in the world, the richness of the resources involved and the size of the area have long made the delimitation applications of countries around the Arctic Ocean receive the attention and participation of all countries in the world, but the Commission on the Limits of the Continental Shelf has not yet made any key decisions on this issue, and the prospect of delimitation is still a fog of uncertainty, facing this situation, the author Faced with this situation, I advocate two ways to solve the problem, namely by improving the working mechanism of the Commission on the Limits of the Continental Shelf (CLCS) and by enacting an Arctic Treaty to achieve the governance of the outer continental shelf in the Central Sea of the Arctic Ocean. For China, we should closely follow the latest work progress of the commission and the latest developments in the delimitation of the outer continental shelf in the central waters of the Arctic Ocean, and summarise the latest developments in the theory and practice of the continental shelf regime in a timely manner, so as to provide reference and reference for China's future delimitation of the outer continental shelf and actively respond to the delimitation claims of other countries that infringe upon our maritime rights and interests.

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