Chapter 10

Continental Shelf

Offshore oil and natural gas production is a multibillion dollar industry. Ever-improving technology has made possible the drilling of wells in extremely deep waters on the continental shelf far from shore. Other continental shelf resources include sedentary fisheries and hard minerals.

Section A of this chapter addresses the early development of the juridical concept of the continental shelf, a concept that came to be generally recognized only in the latter half of the 20th century. Section B explores the work of the International Law Commission, which led to the 1958 Continental Shelf Convention, and municipal cases applying the 1958 legal regime.

Some rules governing the continental shelf changed significantly in the 1982 United Nations Convention on the Law of the Sea (LOS Convention). In Section C we consider the 1982 rules, negotiated at the Third United Nations Conference on the Law of the Sea (UNCLOS III). Section C also examines the Commission on the Limits of the Continental Shelf, a technical body created by the LOS Convention and charged with making recommendations concerning the limits of the continental shelf beyond 200 nautical miles from a coastal state’s baselines.

A Early Developments

Prior to the Second World War, individuals and states were primarily interested in the seabed and subsoil beyond the limits of the territorial sea because of sedentary fisheries. More recently, interest has focused on non-living resources. The 1942 United Kingdom-Venezuela Gulf of Paria Treaty (with respect to what was then U.K.’s colony of Trinidad and Tobago) contemplated the exploitation of the mineral resources of the seabed and subsoil of the Gulf of Paria. In 1945 concern with offshore oil reserves prompted a unilateral U.S. proclamation, which precipitated the development of the modern law of the continental shelf.

This section reproduces the 1945 U.S. continental shelf proclamation, along with explanatory statements. Also included are Chile’s assertion of an extended offshore zone and the U.S. reaction to that assertion.
PRESIDENTIAL PROCLAMATION NO. 2667 (TRUMAN PROCLAMATION REGARDING THE CONTINENTAL SHELF)

Whereas the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

Whereas its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

Whereas recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and

Whereas it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

Now, therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.