CHAPTER 4

The Law and Politics of the Lomonosov Ridge

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Abstract

Much of the Arctic Ocean lies beyond the 200 nautical mile Exclusive Economic Zones of its five coastal States: Canada, Norway, Russia, the United States, and Denmark via Greenland. According to Article 76 of the UN Convention on the Law of the Sea (UNCLOS), coastal States may assert rights over seabed resources located beyond 200 nautical miles if and where they are able to scientifically demonstrate the existence of an ‘extended continental shelf’ using geological and geomorphological data.

This article explains how the delimitation of extended continental shelves is complicated in the Arctic Ocean by ‘submarine ridges’ and ‘submarine elevations’. It focuses on the Lomonosov Ridge, a prominent structure that runs northwards from Greenland and Canada’s Ellesmere Island, passes near the North Pole, and continues towards Russia.

In 2001, Russia filed an initial submission with the Commission on the Limits of the Continental Shelf (CLCS), a body of scientists established under the 1982 UN Convention on the Law of the Sea (UNCLOS) that evaluates submissions and issues recommendations. Although Russia asserted that the Lomonosov Ridge is part of its extended continental shelf, it limited itself to the portion of the ridge on the Russian side of the 168°58′37″W meridian. In 2013, Canada filed a submission with the CLCS, but decided to withhold the Arctic Ocean portion until more data could be collected—with a view to asserting rights over the seabed at the North Pole. Denmark’s submission is anticipated in 2014. Neither Norway nor the United States appears to have any possible rights on the Lomonosov Ridge.

CLCS recommendations are without prejudice to the future delimitation of maritime boundaries. At the same time, the Commission’s rules of procedure prevent it from considering parts of submissions that overlap unless all the disputants have consented. Russia, Denmark and Canada would therefore be wise to coordinate and perhaps limit their submissions, at least temporarily. Alternatively, the three countries could consent to the CLCS considering data from areas where submissions overlap.

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The resulting recommendations could then provide useful information about the outer limits of national jurisdiction for when boundaries are negotiated.

Boundary negotiations between Russia, Denmark and/or Canada will be necessary if (1) the submissions overlap and (2) the CLCS determines the Lomonosov Ridge is part of both the Russian and Greenland/Ellesmere Island continental margins. At some point, Denmark and Canada will also have to negotiate a boundary separating their adjoining rights along the Lomonosov Ridge, outwards from the coasts of Greenland and Ellesmere Island. Within 200 nautical miles of shore, the two countries have already used an ‘equidistance line’, every point of which is an equal distance from the nearest points on their respective, adjacent coastlines. By sheer coincidence of political and physical geography, extending that line beyond 200 nautical miles would take it almost exactly down the middle of the Lomonosov Ridge, providing a neat solution for both countries.

1 Introduction

“The Arctic is Russian,” announced Artur Chilingarov after planting a titanium flag on the seabed at the North Pole in 2007. Although the words were widely reported as a statement of expansionist intent, observers of Russian politics knew better: Chilingarov was a member of the Russian Duma seeking re-election, and the flag planting lacked any legal relevance.

In 2008, the Arctic Ocean coastal States (Canada, Norway, Russia, the United States, and Denmark, via Greenland), committed themselves to existing international law and the resolution of disputes through negotiation. They stated in the Ilulissat Declaration: “We remain committed to this legal framework and to the orderly settlement of any possible overlapping claims.”

2 The Ocean Legal Regime

Unlike the Antarctic, the Arctic is an ocean surrounded by continents. The applicable legal framework was established in UNCLOS, which has been ratified by four of the five Arctic Ocean coastal States and, although not yet ratified