A New Arctic Conquest: 
The Arctic Outer Continental Margin

Bjørn Kunoy*

1. Introduction

The Arctic has always represented a sybillic mystery for all nations, not only because of the human fascination for hostile environments but also, and most of all, because it has been an integral part of various countries’ geopolitical and strategic chess games from the middle of 17th century and up to the 20th century. Initially the goal of Arctic conquest was to find the Northwest passage, but after it was established that it was innavigable, other motives drove the Arctic expeditions. These achieved momentum in the beginning of the 20th century where patronism and national pride were the driving factors of the North Pole conquest.

The Arctic conquest has taken a new dimension in the aftermath of the jingoistic planting of a Russian titanium flag on the seabed under the North Pole. Russia claims a sector of the Arctic continental shelf corresponding to the size of Western Europe. The Russian claim has created a new source of international tension due to the huge economic and geopolitical interests that are hidden in the Arctic continental shelf, which according to some geologists holds a quarter of the world’s oil and gas reserves. At contemporary prices the billions of barrels of oil and trillions of cubic feet of gas are worth hundreds of billions of dollars and are more readily accessible with the ice caps melting.

The manner in which the Russian claim has been expressed has created anger amongst its allies not only because of its unilateral character, but also because of its incongruous and anachronic legal approach as well as provocative nature. The act has been contested by third States proclaiming that it does not bolster the Russia’s disputed claim to the Arctic continental shelf, referring to international

* Special Advisor Department of Foreign Affairs, Faroese Prime Minister’s Office. The opinions expressed are the views of the author and not the affiliated institution. The author may be contacted at bjorkenoy@gmail.com.
law and therein the United Nations Third Conference on the Law of the Sea (“UNCLOS” or the “Convention”) which provides a *juris corpus* on the basis of which rights to the outer continental shelf can be attributed to coastal States. The delineation or delimitation of the continental shelf must be carried out according to international law as it would be “contrary to recognised principles of international law” if done regardless of the legal position of other States.¹ In other words, the legality of the establishment of an outer continental margin as well as any other act of delineation depends of international law² due to its international character, and if not done according to international law, it will not be opposable to other States.³

This piece examines some of the prevailing legal aspects with respect to the establishment of one or several Arctic outer continental margins. It will be concluded that any attempt at Arctic outer continental margin delimitations, to the same extent as other outer continental margin delimitations, will differentiate delimitations within 200 nautical miles (NM). Not only will the different entitlements to the Arctic outer continental margin be scrutinised on an autonomous basis but the delimitation process will be subjugated to legal principles influenced by territorial conceptions of land delimitation.

2. *The establishment of the outer continental margin*

All coastal States have an inherent right to the maritime area and continental shelf of a distance corresponding to 200 NM from the baselines from which the breadth of the territorial sea is measured.⁴ By contrast only some coastal States are vested with the right to extend their jurisdiction beyond 200 NM according to Article 76 of the Convention. In order to be vested rights to claim an outer continental margin, the coastal State must produce geological, geophysical, hydrographic and geomorphologic data that the outer continental margin is an extension of the continental shelf and the relevant scientific and technical data must be submitted to the Commission on the Outer Limits of the Continental Shelf (CLCS).

2.1. *The CLCS*

According to Article 76(8) of the Convention, all coastal States claiming an extension of the continental shelf shall submit the data on which the claim is

⁴ Article 76(1) of the Convention.