



Oil, Gas and Mineral Resources of the U.S. Extended Continental Shelf: Extent, Recoverability and Environmental Implications

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The U.S. extended continental shelf, most notably in the Arctic, is thought to contain extensive oil and gas resources.



United Nations Convention on the Law of the Sea (UNCLOS) provides the overarching legal framework for governance of human activities in the oceans.



Through UNCLOS coastal states are able to make known their data on the limits of their extended continental shelf beyond 200 nm from the baselines from which the breadth of their territorial sea is measured (Art 76).



The Commission on the Limits of the Continental Shelf established under UNCLOS Annex II considers data and other material submitted by coastal state with respect of limits of its extended continental shelf. The Commission examines data provided to it and makes recommendations to coastal state and to UN Secretary-General.



- Coastal state exercises sovereign rights for the purpose of exploring an extended continental shelf and exploiting its natural resources.
- These rights do not depend on occupation or express proclamation.
- Thus U.S. rights are not contingent *per se* on accession to UNCLOS.



- Absent accession, no method for the United States to report, have its data accepted and have those limits recognized by other countries.
- Without recognition, no sure title to the relevant resources, thus it is unlikely that any entity would wish to invest in these areas.



Strongly in the U.S. interest to accede to UNCLOS *inter alia* to be able to obtain internationally recognized limits of an extended continental shelf.



ADDITIONAL BENEFITS OF ACCESSION

- Other important resources to be managed by the coastal state on its extended continental shelf.
- These include living organisms belonging to sedentary species, that is organisms that at the harvestable stage are either immobile on or under the seabed or unable to move except in constant contact with the seabed or the subsoil (Art. 77).



- The extended continental shelf encompasses other important values, not all subject to exclusive jurisdiction of the coastal state.
- As the seabed is little explored, little known and little understood, we are working with incomplete and insufficient information.



FISH

- Seabed may include sites of importance as spawning, feeding, sheltering grounds for marine species that form part of the food chain for fish stocks.
- States have an obligation to cooperate in the conservation and management of these living resources.



SCIENTIFIC RESEARCH

- States and competent intl organizations have right to conduct marine scientific research (msr) on extended continental shelf.
- Coastal state normally to grant consent to msr on its continental shelf, though the coastal state has the right to regulate, authorize and conduct such research (Art 246).
- Coastal state may withhold consent under some circumstances.
- If involves drilling, use of explosives or the introduction of harmful substances into the marine environment.



UNKNOWNNS

- The shelf is little known and little studied.
- The surface of Mars is better known and has been studied than has the seabed.
- Only now acquiring data about the limits of extended continental shelf.
- Have even less information on its biota.



- Scientific studies should be completed before development of any extractive activities.
- Important to understand ecosystems of the seabed before we force changes such as:
 - modifications of topography of the seabed,
 - turbidity of the water and associated light levels in the water column,
 - chemistry of the water.

CLIMATE CHANGE

- The climate is changing.
- A sign of this change is the rapid decline of ice cover in the Arctic.
- Need to manage for this change.
- Fish stocks migrating pole-ward.
- Need understanding of what this means for fish and for related ecosystems.
- Must manage for change.



Management based on an ecosystem-based approach to provide a comprehensive framework for decision-making about marine activities to include:

- definition of portions of ocean space based on ecological criteria,
- development of trans-boundary spatial management arrangements.



Once natural cycles better understood need:

- Environmental impact assessments,
- Based on assessments, informed management decisions with respect of oil and gas and mineral resource development,
- Include interests of all stakeholders - indigenous populations, fishers, scientists, coastal communities, effects on neighboring territories.



- Environmental implications of recoverability of oil and gas and mineral resources very important, effects potentially severe.
- Apply guidelines on environmentally sound practices.



- 1993 IUCN and E&P Forum booklet entitled “Oil and Gas Exploration and Production in Arctic and Subarctic Onshore Regions: Guidelines for Environmental Protection.”



2002 Arctic Council/PAME “Arctic Offshore Oil & Gas Guidelines” provide for minimum standards, updated version to be accepted April 2009, includes:

- the principle of a precautionary approach,
- the polluter pays principle,
- commitment to sustainable development.



- Prudence before going forward with oil and gas and mineral resources activities on extended continental shelf.
- President announced goal of reduction in greenhouse gas emissions from 2005 levels of 15% by 2020 and 83% by 2050.



- The EPA Administrator announced a finding that identified six gases as contributing to global warming and constituting a serious problem.
- Thus, sensible to leave undisturbed these areas as we now move to a policy of shifting to non-carbon-based sources of energy.



- Coastal state has obligations under UNCLOS that apply with respect of continental shelf.
- States have obligation to protect and preserve the marine environment (Art. 192).
- States have the sovereign right to exploit their natural resources pursuant to their environmental policies **and in accordance with their duty to protect and preserve the marine environment** (Art. 193). [emphasis added]



U.S. accession to UNCLOS would allow for recognition by the international community of the limits of an extended continental shelf, bringing broad benefit for the United States.



- Focus today on oil and gas and mineral resources.
- Other benefits may well prove more important.
- We do not have the necessary information at this time to know.

- But in summary, other benefits may include:
- To better promote scientific investigation and the management and benefit from resources, including genetic, found on extended continental shelf.
 - To provide protection for the seabed providing habitats for fish stocks; for scientific research (Art. 246(5)(a)).



Thank you.

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