Why The Law of the Sea Convention Matters in the Arctic

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Overview

• The United States and The Law of the Sea Convention (UNCLOS)

• Possible consequences for U.S. Arctic Policy

BONUS Feature

• Russian claims in the Arctic
The U.S. and
The Law of the Sea Convention
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✓ International Acceptance
  • 167 states have ratified (85%)(plus the EU)
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X - U.S. Senate Failure to Ratify
  • UNCLOS hurts
  • UNCLOS unnecessary
Possible Consequence for U.S. Arctic Policy

• UNCLOS and the Arctic

• The Anti-UNCLOS view

• Potential Risks and Lost Opportunities
Key Terminology

Maritime Zones

Coast/Baseline

Territorial Sea

Sovereignty extends to the water column, to the airspace above, and to the seabed and subsoil.

Contiguous Zone

Limited law-enforcement zone

12 nm 24 nm

Exclusive Economic Zone

To a maximum of 350 nm from the coast/baseline or 100 nm beyond the 2,500 meter isobath, whichever is greatest

Extended Continental Shelf

Continental Shelf

Sovereign rights over natural resources of the water column and the seabed and subsoil

Sovereign rights over natural resources of the seabed and subsoil

CS

ECS

Deep Seabed Area
What UNCLOS says . . . .
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    *The Commission on the Limits of the Extended Continental Shelf (CLCS)*
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  - Sovereign states
  - “The Area”
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- Neighbors matter
  - Sovereign states
  - “The Area”
- Royalty payments
UNCLOS Opponents: “Just Do It”

• The U.S. defines its own continental shelf
• In the event of conflicting claims, use bilateral diplomacy
Risks and Potential Lost Opportunities

• Direct territorial challenge

• Failure to pay royalties

• “Trespassing” in the Area

• Failure to protect the environment
## Who Might Try?

<table>
<thead>
<tr>
<th>POTENTIAL Challengers</th>
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</thead>
<tbody>
<tr>
<td>International Organization</td>
</tr>
<tr>
<td>Foreign Government</td>
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<tr>
<td>Foreign Corporation</td>
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<tr>
<td>NGO Citizens</td>
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</table>
## Likely Targets?

<table>
<thead>
<tr>
<th>POTENTIAL Targets</th>
<th>United States</th>
<th>U.S. Corporation</th>
<th>Other Corporation</th>
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</thead>
<tbody>
<tr>
<td>Challengers</td>
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<tr>
<td>UNCLOS Entity</td>
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</tr>
<tr>
<td>Foreign Government</td>
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<td>Foreign Subsidiary</td>
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<tr>
<td>Foreign Corporation</td>
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<td>Any U.S. licensee</td>
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<tr>
<td>NGO Citizens</td>
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</table>
The need for legal certainty

“[We are] interested in exploring for oil and gas resources that may exist under the vast new areas that are recognized for sovereignty purposes under the UNCLOS. . . . Before undertaking such immense investments, legal certainty in the property rights being explored and developed is essential.”

Rex W. Tillerson, Chairman and CEO, Exxon Mobil Corporation, Letter to U.S. Senate Committee on Foreign Relations Leadership, Chairman John Kerry (D-MA) and Ranking Member Richard Lugar (R-IN), June 8, 2012
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• Recent claims in the Arctic
Russian Claims

- Dec 2001:
  First claim returned for insufficient evidence in 2001
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• Feb 2013:
  Partial resubmission for Sea of Okhotsk

• Aug 2015:
  Remainder of resubmission
Russian Claims: Potential Conflicts

- United States
- 1990 Agreement
Russian Claims: Potential Conflicts

- United States
- Denmark
Russian Claims: Potential Conflicts

- United States
- Denmark
- Canada
Questions?