



CIL Arctic Research Programme

Supported by:



ARCTIC MARITIME BOUNDARIES

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Preview

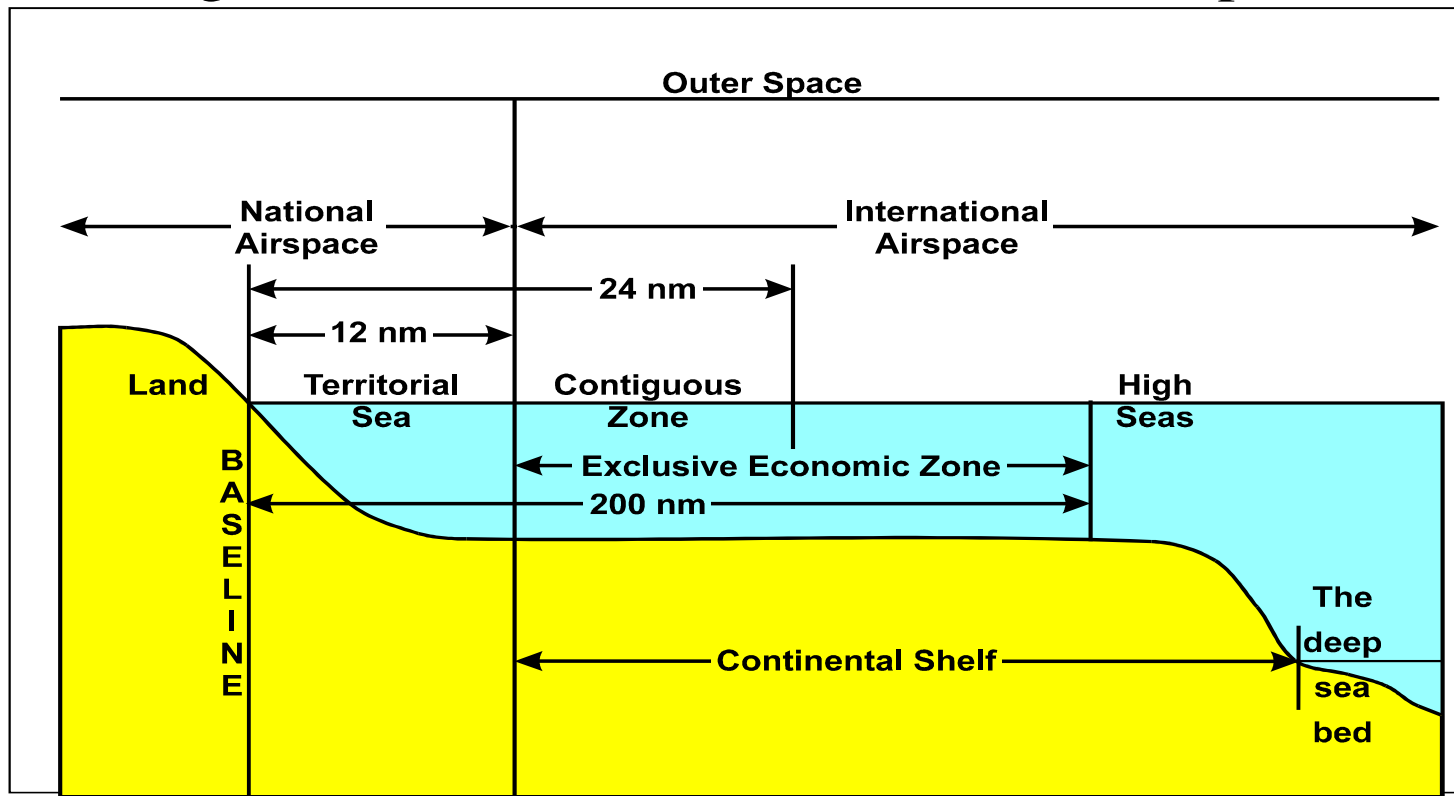
- Maritime zones and Arctic 8 maritime claims
- International law on boundary delimitation
- Maritime boundary situations in Arctic
- Arctic maritime boundaries within and beyond 200 nm
- Role of Commission on the Limits of the Continental Shelf (CLCS)
- Arctic extended continental shelf (ECS) claims and boundaries



Maritime Zones

- Arctic is just like any other ocean
 - Internal waters, territorial sea (TS), EEZ, high seas
 - Continental shelf (CS), deep sea bed (“The Area”)
 - Straits used for international navigation
 - Other uses of the oceans (LOS Convention Parts XI-XIV)
- Five States border the Arctic Ocean
 - Russia (Siberia), USA (Alaska), Canada (NW Territories), Denmark (Greenland), Norway (Svalbard)
 - Each is in the process of defining the outer limit of its continental shelf (ECS)
 - Norway has received CLCS approval (more later)

Legal Boundaries of the Oceans and Airspace



96-CD603



The Area

- The Area = the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction
 - i.e., seaward of the continental shelf (or ECS)
 - LOS Convention article 1 (1)(1)
- The Area and its resources are the common heritage of mankind
 - LOS Convention article 136
- Applies to the Arctic Ocean
- However, geographic extent will not be known until the outer limits of the CS/ECS of the Arctic 5 are known

Maritime jurisdiction and boundaries in the Arctic region



Arctic 8 Maritime Claims

- Canada – 12 nm TS, 200 nm EEZ, CS, ECS
- Denmark (Greenland) -12 nm TS, 200 nm EEZ, CS, ECS
- Denmark (Faroe Islands) – 200 nm FPZ
- Norway (mainland) - 12 nm TS, 200 nm EEZ, CS, ECS
- Norway (Svalbard) - 12 nm TS, 200 nm FPZ, CS
- Norway (Jan Mayen) - 12 nm TS, 200 nm EEZ, CS
- Russia – 12 nm TS, 200 nm EEZ, CS, ECS
- USA – 12 nm TS, 200 nm EEZ, CS, ECS
- Finland - 12 nm TS, 200 nm EEZ, CS
- Iceland - 12 nm TS, 200 nm EEZ, CS, ECS
- Sweden - 12 nm TS, 200 nm EEZ, CS

TS=territorial sea; EEZ=exclusive economic zone; FPZ=fisheries protection zone;
CS=continental shelf; ECS=extended continental shelf (beyond 200 nm)



Maritime Boundary Situations

- Maritime boundaries are needed when two States have overlapping maritime zones
 - (1) where they have opposing coasts, and
 - (2) where the coasts of the two States are adjacent to each other
- There are different rules for delimitation of the territorial sea and of the EEZ/continental shelf including shelf beyond 200 nm



Boundary Delimitation Process

- Maritime boundaries are most often established by agreement
- Boundary treaties are permanent
- Delimitation process applies in the Arctic Ocean as in other ocean areas

Law of the Sea Convention (1)

- Article 15: Delimitation of Territorial Sea
- Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea **beyond the median line** every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured.
- The above provision does not apply, however, where it is necessary by reason of **historic title or other special circumstances** to delimit the territorial seas of the two States in a way which is at variance therewith.
- These rules are different from the modern rules for delimitation of EEZ and continental shelf

Law of the Sea Convention (2)

- Articles 74/83: Delimitation of EEZ/Continental Shelf
- 1. The delimitation of the exclusive economic zone/continental shelf between States with opposite or adjacent coasts shall be **effected by agreement on the basis of international law**, as referred to in Article 38 of the Statute of the International Court of Justice, **in order to achieve an equitable solution**.
- 2. Conciliation if not agreement within a reasonable time
- 3. **Pending agreement** as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into **provisional arrangements** of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be **without prejudice to the final delimitation**.



Delimitation by Agreement

- Where delimitation is by agreement, base points and/or baselines have been used in maritime boundary agreements
- Only portions of a State's baseline will affect an equidistance line. By definition, the equidistance line will be constructed by using only the salient (seaward-most) basepoints
- The greater the distance, the fewer the basepoints that are likely to affect it, and the greater the distance that may be selected between points along a smooth coast



Definitions

- “Baseline” is defined by the UN as “the line from which the seaward limits of a State’s territorial sea and certain other maritime zones of jurisdiction are measured [i.e., CZ, EEZ, CS].”
- “Base point” is defined by the UN as “any point on the baseline.”



Delimitation by Adjudication

- Failing agreement on delimitation, Parties may proceed to seek judicial determination of the maritime boundary
- Fora: ICJ, ITLOS, Arbitral Tribunal under Annex VII
- Prerequisites:
 - Parties must agree to the forum
 - ICJ not available to those not accepting ICJ jurisdiction (Russia and US)
 - ITLOS and Arbitration not available to non-parties to LOS Convention (US) and to those that have opted out (Canada, Russia), unless they otherwise agree



Maritime Boundaries within 200 nm

- 5 maritime boundary situations exist in Arctic Ocean where adjacent or opposite States have overlapping maritime claims within 200 nm:

Russia-US

Denmark-Norway

Canada-US

Norway-Russia

Canada-Denmark (Greenland)

- Many but not all maritime boundaries within 200 nm of the Arctic States have been resolved either by agreement or decided by tribunals

The Arctic Region





Resolved Maritime Boundaries w/in 200 nm

Canada –Denmark (Greenland)

continental shelf, 1973 treaty

Denmark (Greenland) –Norway (Svalbard and Faroe Islands)

Continental shelf and EEZ, 1979 and 2006 treaties

EEZ, 1979 treaty

EEZ, 1993 ICJ decision

Norway –Russia

Territorial sea, 1957 and 2007 treaties

EEZ and continental shelf, 2010 treaty

U.S. –Russia

Territorial sea, EEZ, continental shelf, 1990 treaty

Areas of Unresolved Maritime Boundaries w/in 200 nm

Canada –Denmark (Greenland)

Sovereignty dispute over Hans Island

EEZ (south of Alert), EEZ and continental shelf (north of Alert)

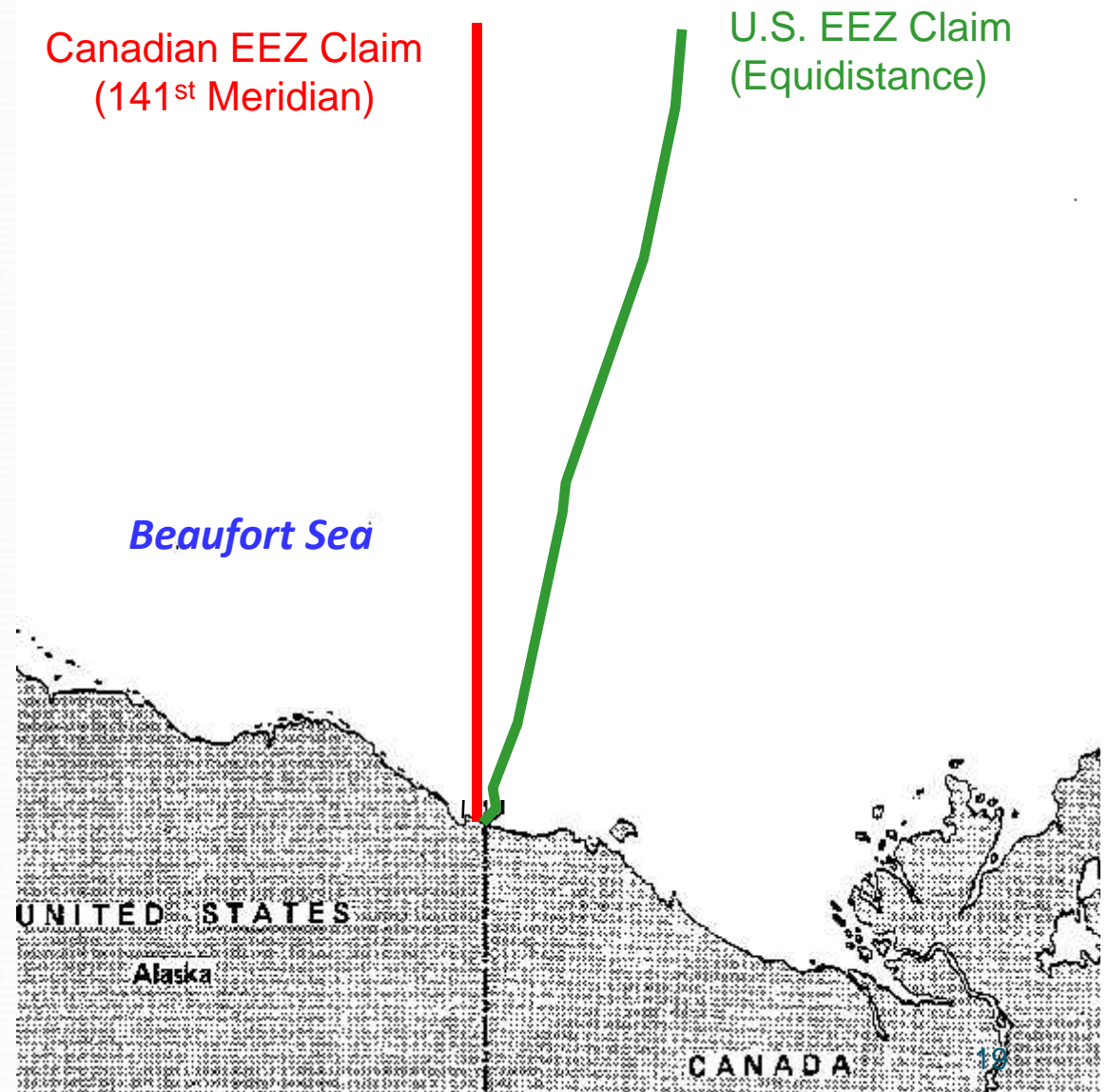
Canada –U.S.

Territorial Sea, EEZ, and ECS in Beaufort Sea/Arctic Ocean

U.S. – Canada Dispute: Beaufort Sea

Disputed area within EEZ is
more than 7,000 square
nautical miles

Likely rich in hydrocarbons



U.S. Purchase of Alaska, 1867

“...from this point the line of demarcation shall follow the summit of the mountains situated parallel to the Coast, as far as the point of intersection with the 141st degree of West longitude (i.e., Meridian); and, finally, from the said point of intersection, the same meridian line of 141 Degrees shall form in its prolongation **as far as the frozen ocean**, the limit between the Russian and British Possessions on the Continent of Northwest America.”

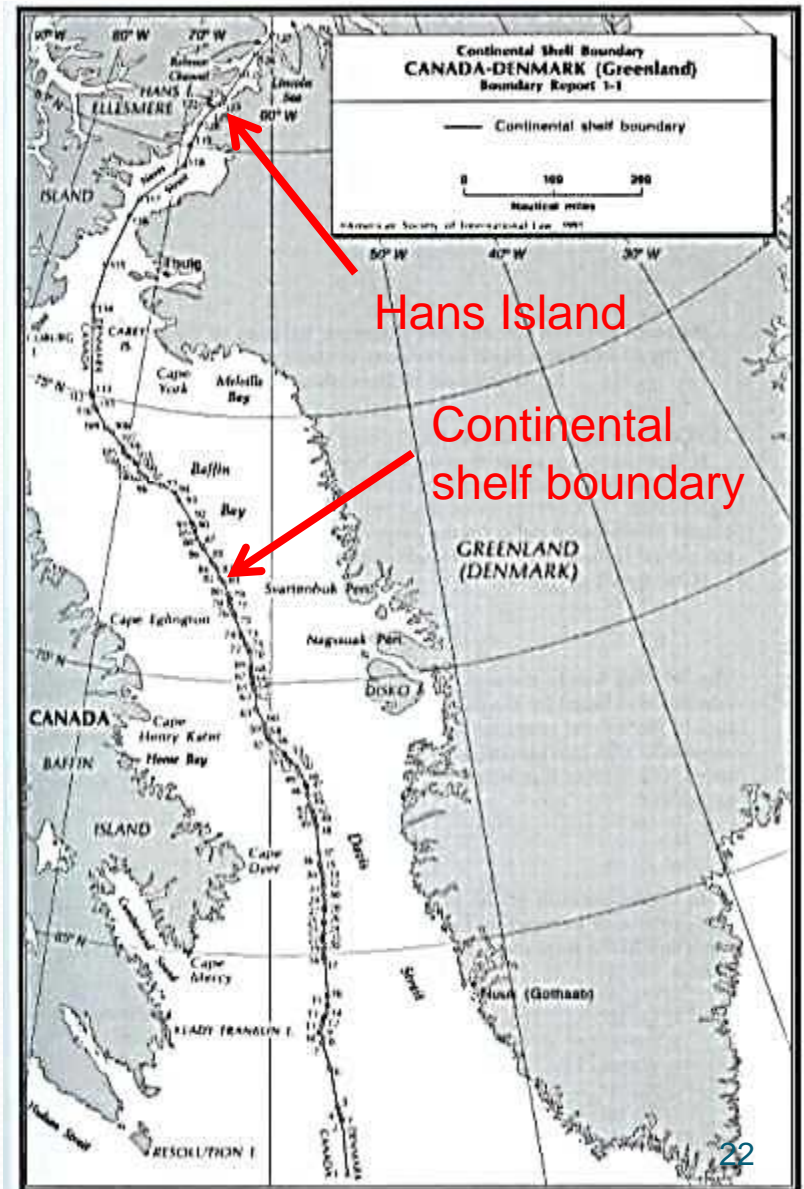


Canada – Denmark Agreement on Continental Shelf Boundary

Delimits continental Shelf between
Canada and Greenland in Davis Strait

- Signed: December 1973
- Entry into force: March 1974
- Amended March 1994
- Unilaterally-defined fishing zones match boundary
- ~1,450 nautical miles long. Includes gap for Hans Island
- Includes unitization provision

No delimitation of the EEZ and ECS
north of the end point, although
agreement in principle in 2012 out to
200 nm



Canada – Denmark

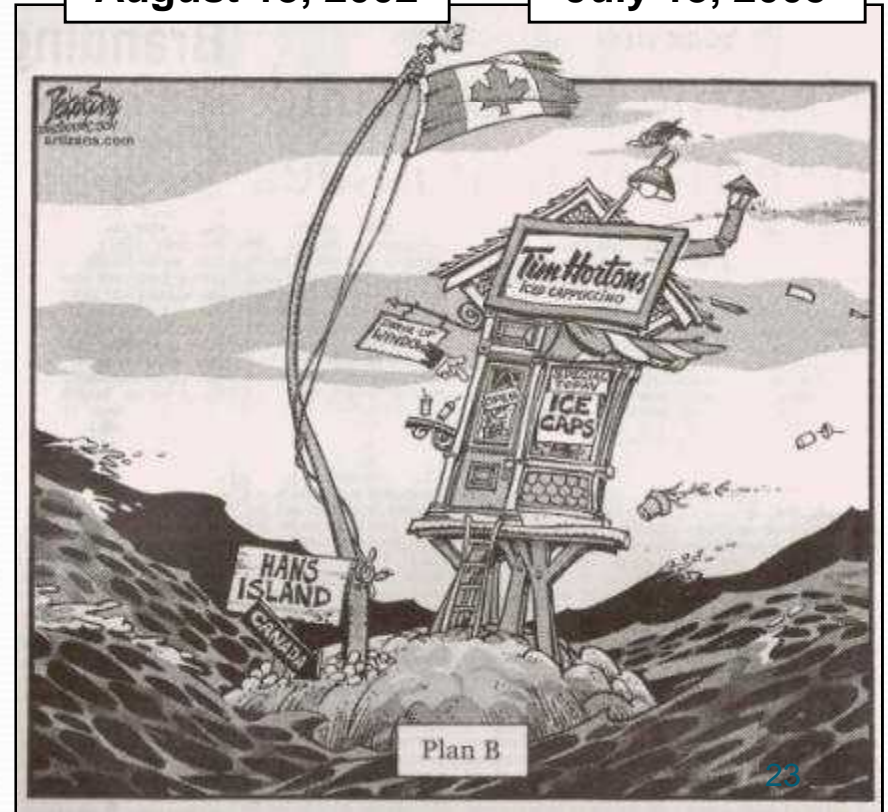
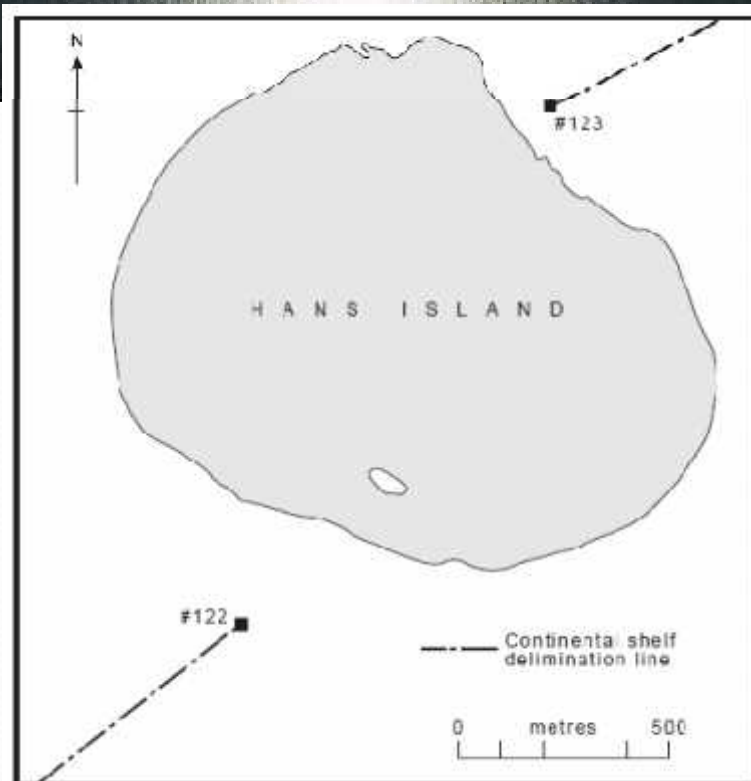
Dispute: Sovereignty of Hans Island



Denmark
August 13, 2002



Canada
July 13, 2005



Denmark – Norway Agreement: Maritime Boundary in Greenland Sea

Delimitation of the EEZ and continental shelf between Greenland and Svalbard

- Signed: February 2006
- Entry into force: June 2006



Norway – Russia Dispute: EEZ

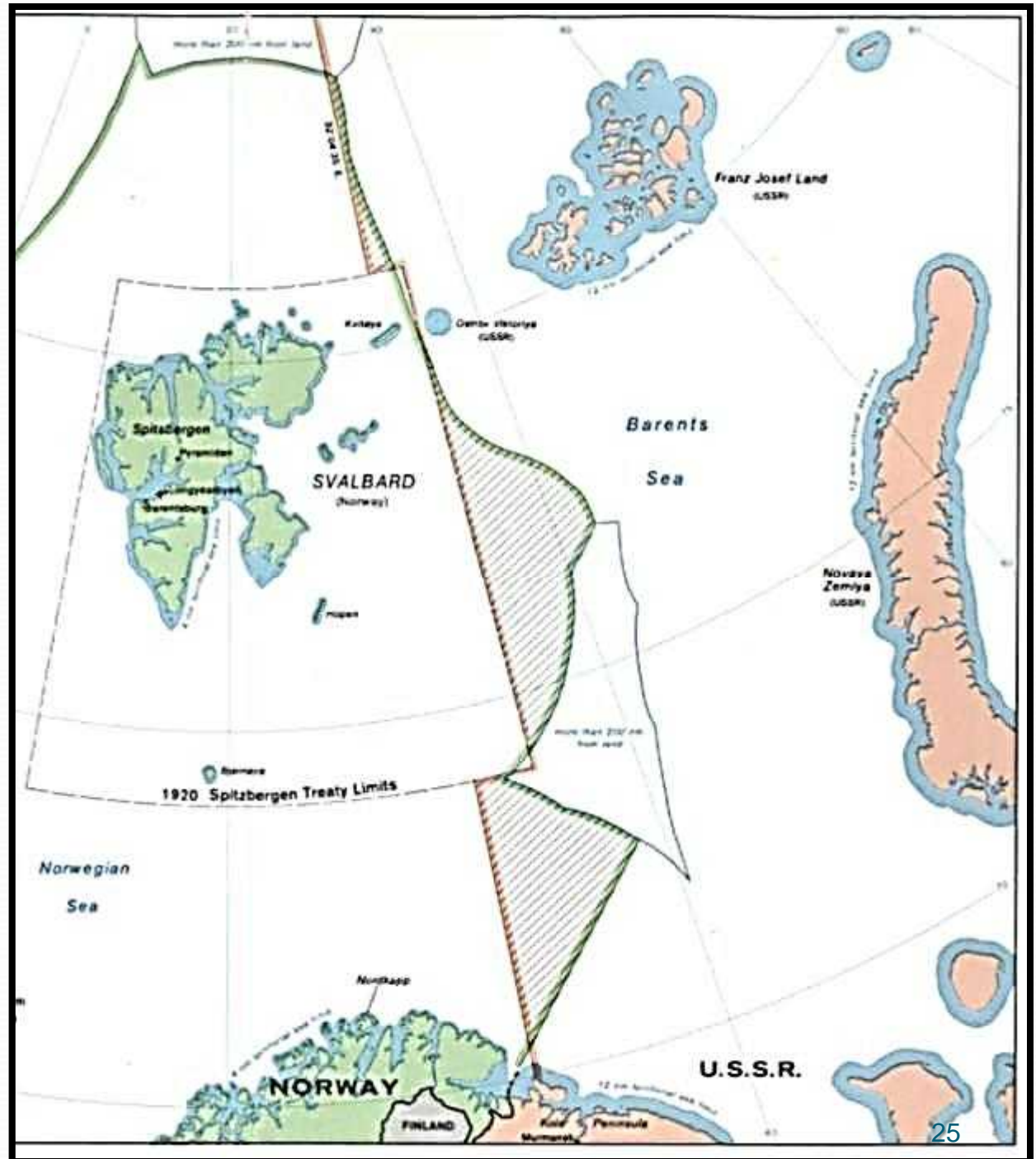
Prior to 2010:

Norway claimed an
equidistance line

Russia claimed a sector
line

Several disputed
polygons created by the
two competing claims

Russia abandoned
sector line theory in
2001 ECS submission
to CLCS

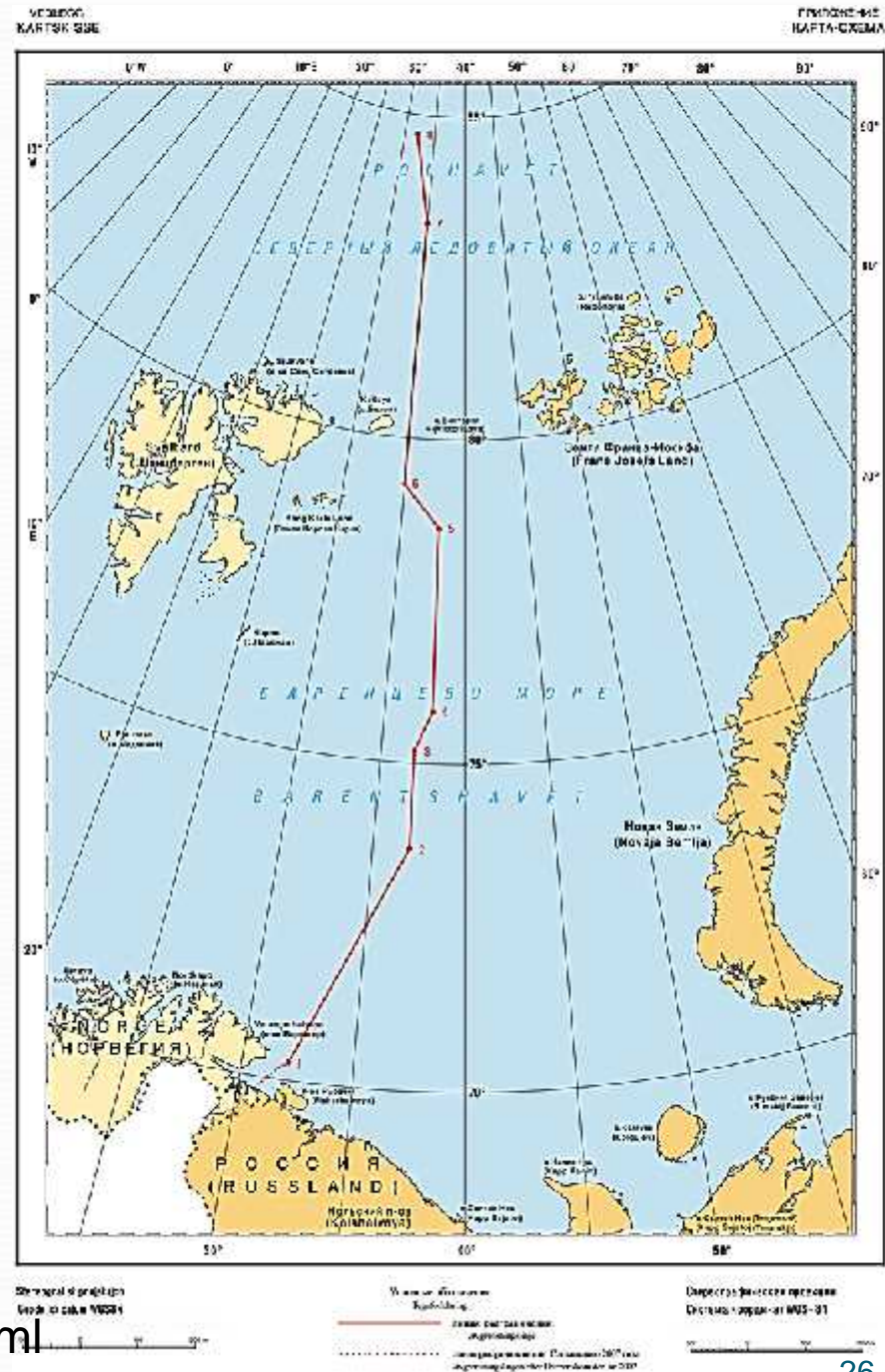


Norway – Russia Maritime Boundary Agreement

Signed
September 15, 2010
Entered into force
July 7, 2011

Special area not shown
on this map

<http://www.regjeringen.no/en/dep/smk/press-center/Press-releases/2010/treaty.html?id=614254>



U.S. – Russia Agreement: Territorial Sea, EEZ and Continental Shelf

Agreement between US & USSR

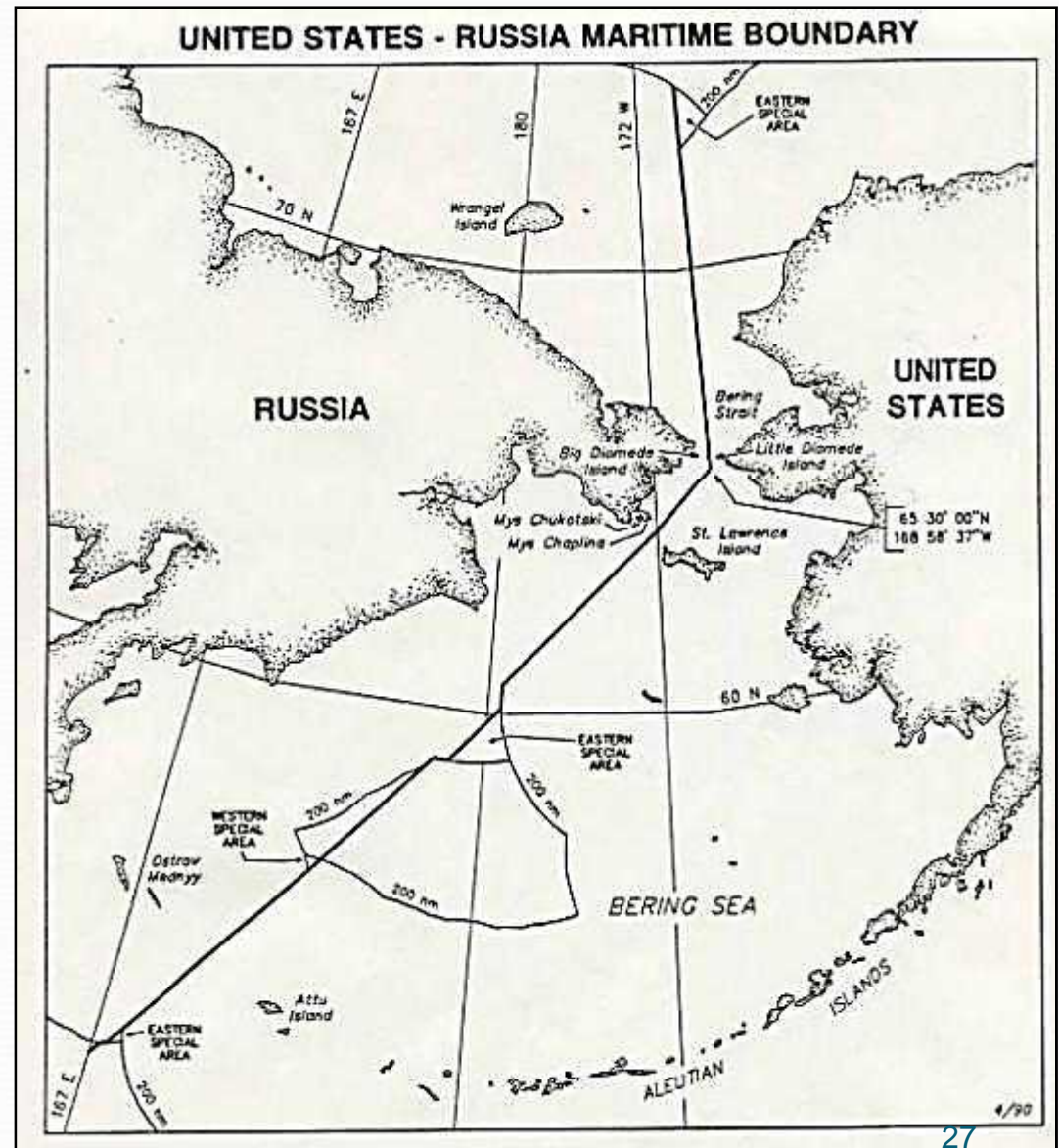
- Signed: June 1990
- U.S. ratified: Sept 1991
- Provisionally applied from June 1990

Longest maritime boundary in the world

First boundary to include the extended continental shelf

”...the maritime boundary extends north...into the Arctic Ocean as far as permitted under international law”

Four Special Areas, one in Arctic



Maritime Boundary Special Areas

- A maritime boundary might leave a pocket of high seas where the location of the boundary is more than 200 nm from the nearest coastline but within 200 nm of the opposite coastline (thus on the “wrong” side of the line)
- In the US-Russia 1990 maritime boundary four such situations exist, one of which in the Arctic
- In the Russia-Norway 2010 boundary one such area exists
- In both agreements the “special area” is managed as if it were the EEZ of the State on its side of the line even though it is more than 200 nm from its coastline
- The “special area” does not increase the size of the State’s EEZ on its side of the boundary; but it keeps foreign fishers out (vice Bering Sea donut hole)

Boundaries beyond 200 nm

- Boundaries beyond 200 nm are of continental shelf only, not high seas (i.e., extended continental shelf or ECS)
- Two separate locations of boundaries beyond 200 nm
 - Outer limit of ECS based on agreed recommendations of CLCS (article 76(7))
 - ECS boundaries between adjacent or opposite States (article 76(10))
- ECS outer limit **delineated** first, before **delimitation** of shelf between States with opposite or adjacent coasts
- Exception when ECS between opposite coasts is less than 400 nm apart
 - Examples: Delimitation of US-Mexico ECS boundary in Western Gap of the Gulf of Mexico; Bay of Bengal cases
- See separate opinion of Judge Donoghue in *Nicaragua v. Colombia* 2012 ICJ judgment on the merits

Role of CLCS

- Article 76 recognizes a coastal State's geologic/geomorphologic continental shelf may extend more than 200 miles from baseline
- CLCS examines coastal State's submission for compliance with article 76 LOS Convention
- Make recommendations for outer limits of ECS
- If State agrees with recommendations, outer limits are fixed ("final and binding" – article 76(8))
- Members are scientists not lawyers (Annex II)
- Unilateral closed proceedings
- Land or maritime dispute precludes consideration of submission w/o consent of all claimants (CLCS Rules of Procedure Annex I para. 5(a), CLCS/40/Rev.1)



Article 76 - ECS

- Paragraph 5: Outer limits of ECS shall not exceed
 - (i) either 350 nm from baselines, or
 - (ii) 100 nm from 2500 m isobath
- Notwithstanding paragraph 5, on submarine ridges outer limit shall not exceed 350 nm
- However this paragraph “does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs” (paragraph 6). No seaward limit in these situations.

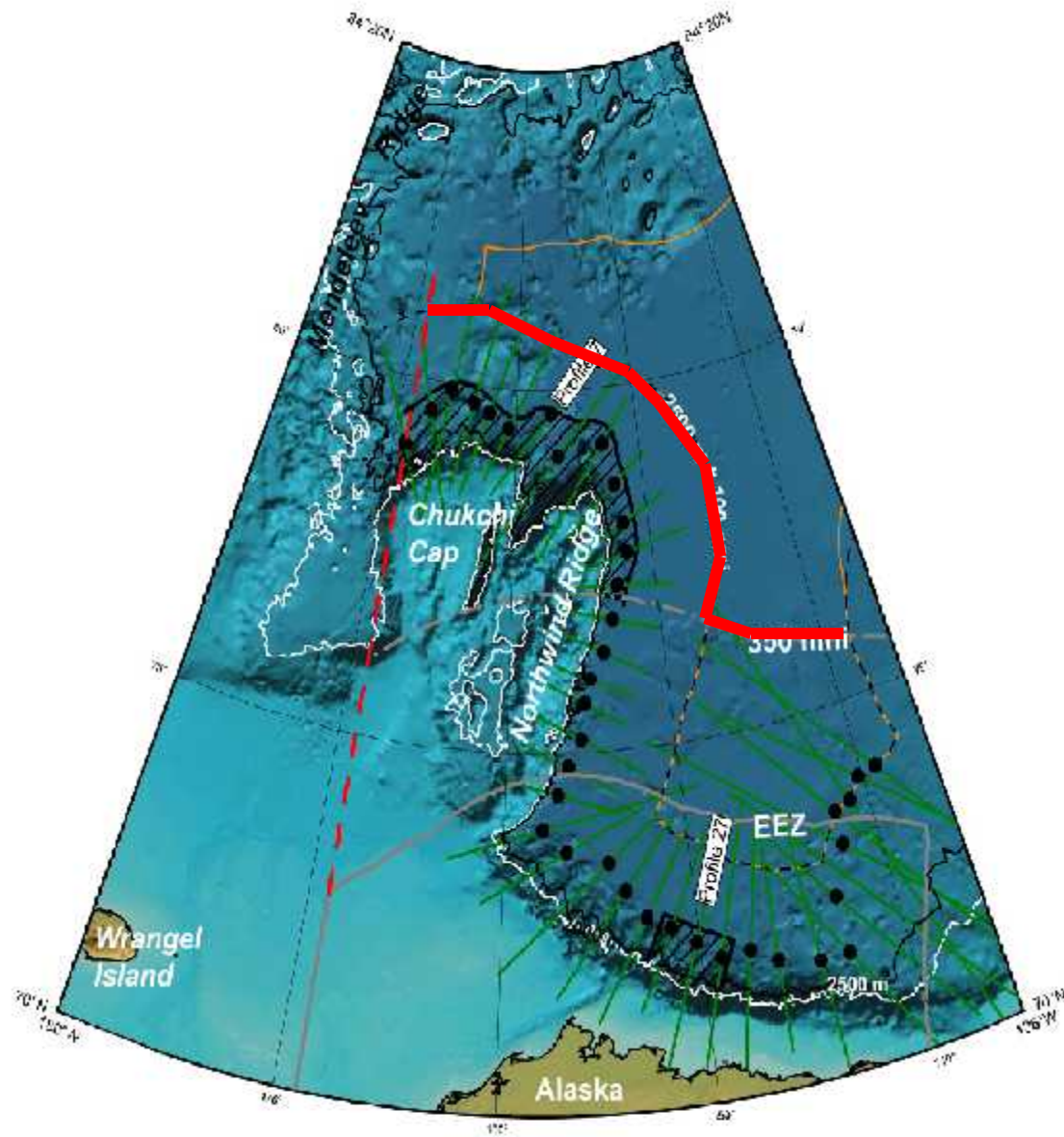
Extended Continental Shelves in Arctic

- Canada
 - Atlantic Ocean (Labrador Sea, Grand Banks, Nova Scotia) ECS partial submission 2013
 - Arctic ECS preliminary information 2013
- Denmark
 - ECS North of Faroe Islands partial submission 2009
 - Southern ECS of Greenland partial submission 2012
 - North-Eastern ECS of Greenland partial submission 2013
 - ECS north of Greenland partial submission in preparation
- Norway
 - 2006 partial submission of ECS in Arctic Ocean, the Barents Sea and the Norwegian Sea approved by CLCS in 2009
- Russia
 - 2001 Arctic submission under revision
- United States
 - Data being analyzed



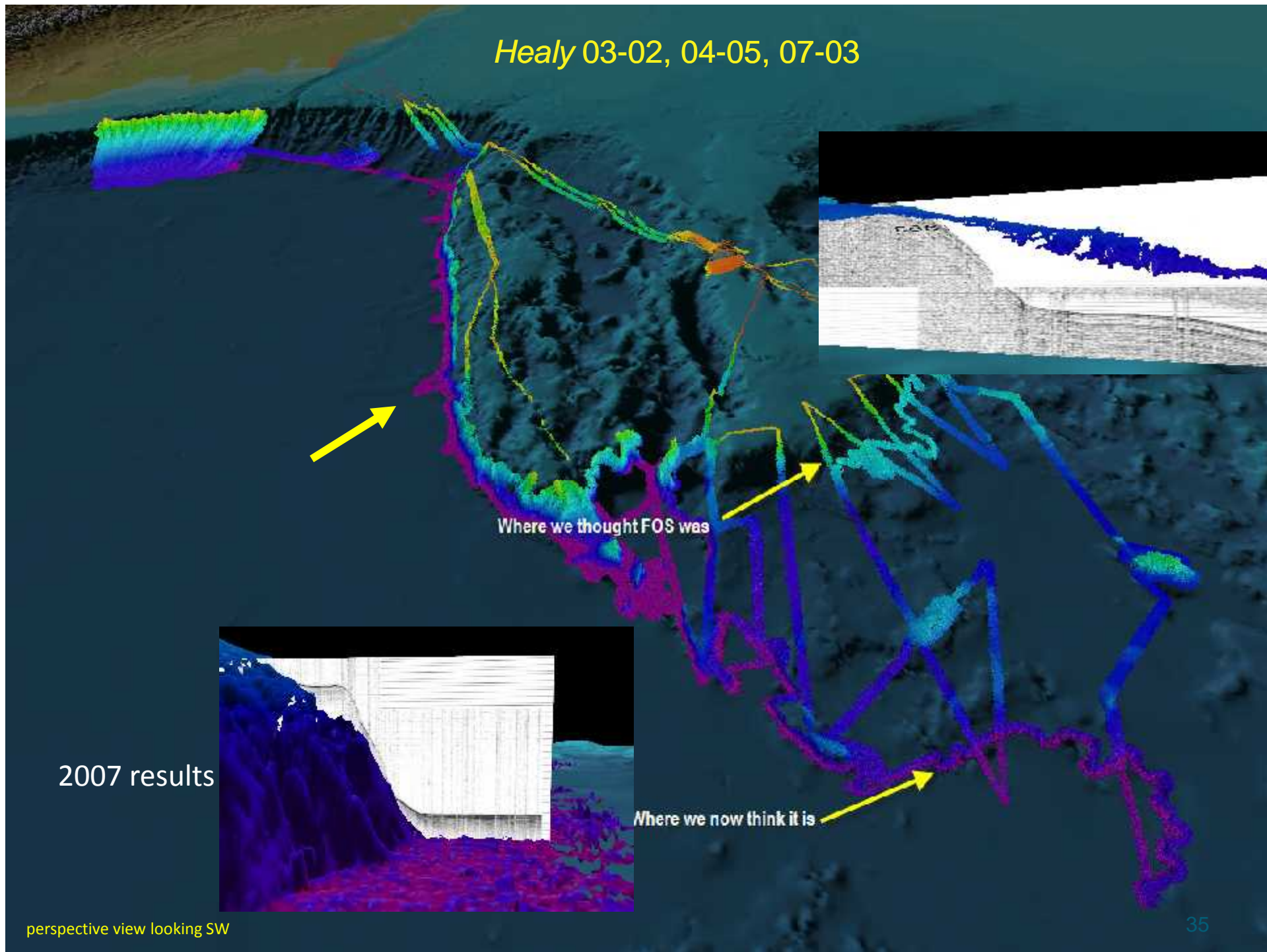
Chukchi Plateau

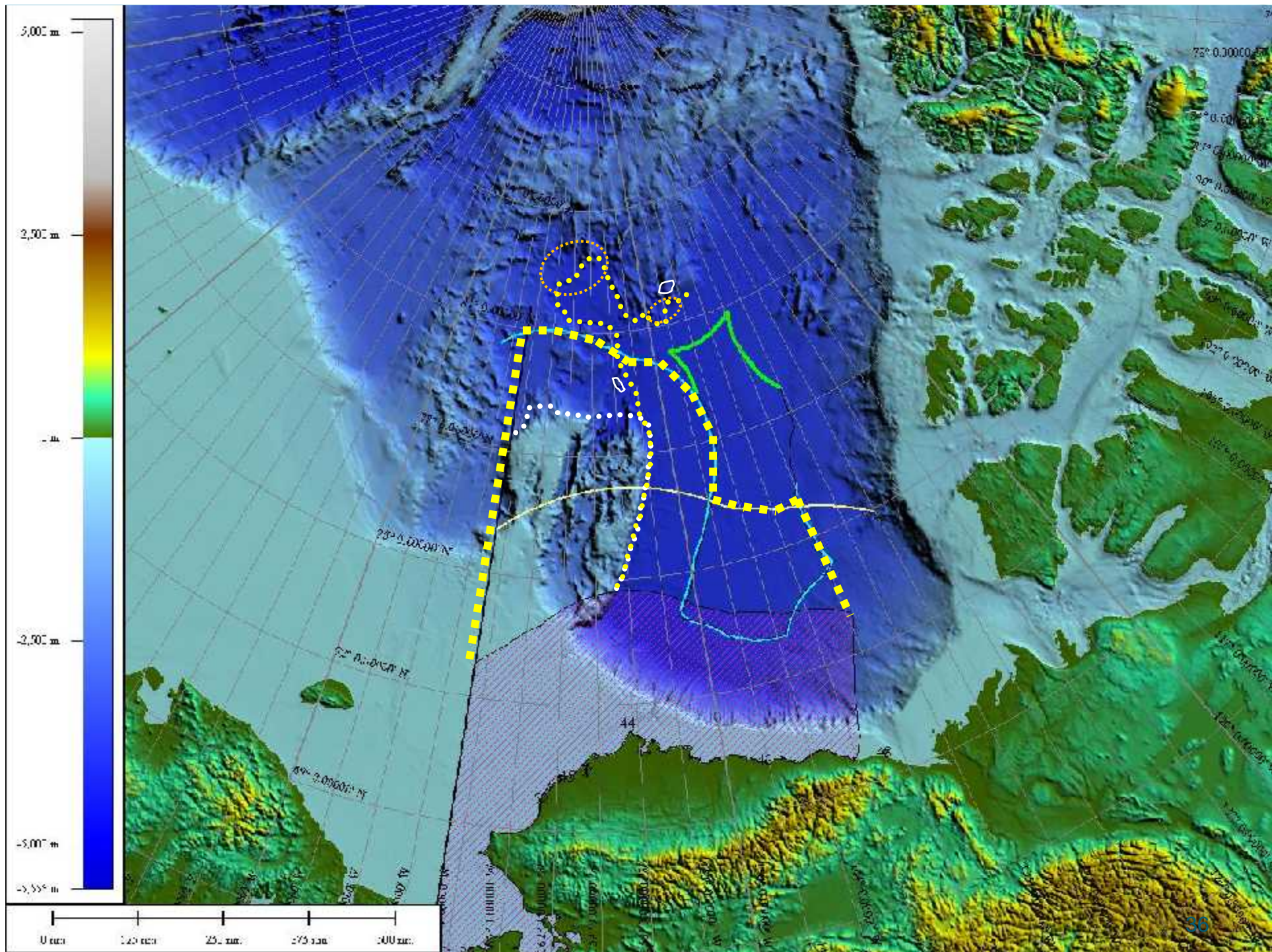
- U.S. Statement, April 3, 1980, UNCLOS III Plenary
- Features such as the Chukchi plateau and its component elevations, situated north of Alaska, are covered by exemption in article 76(6) second sentence of LOS Convention (i.e., not a ridge), and thus not subject to the 350-mile limitation set forth in article 76(6) first sentence
- Repeated in Commentary to 1994 Transmittal Package to U.S. Senate

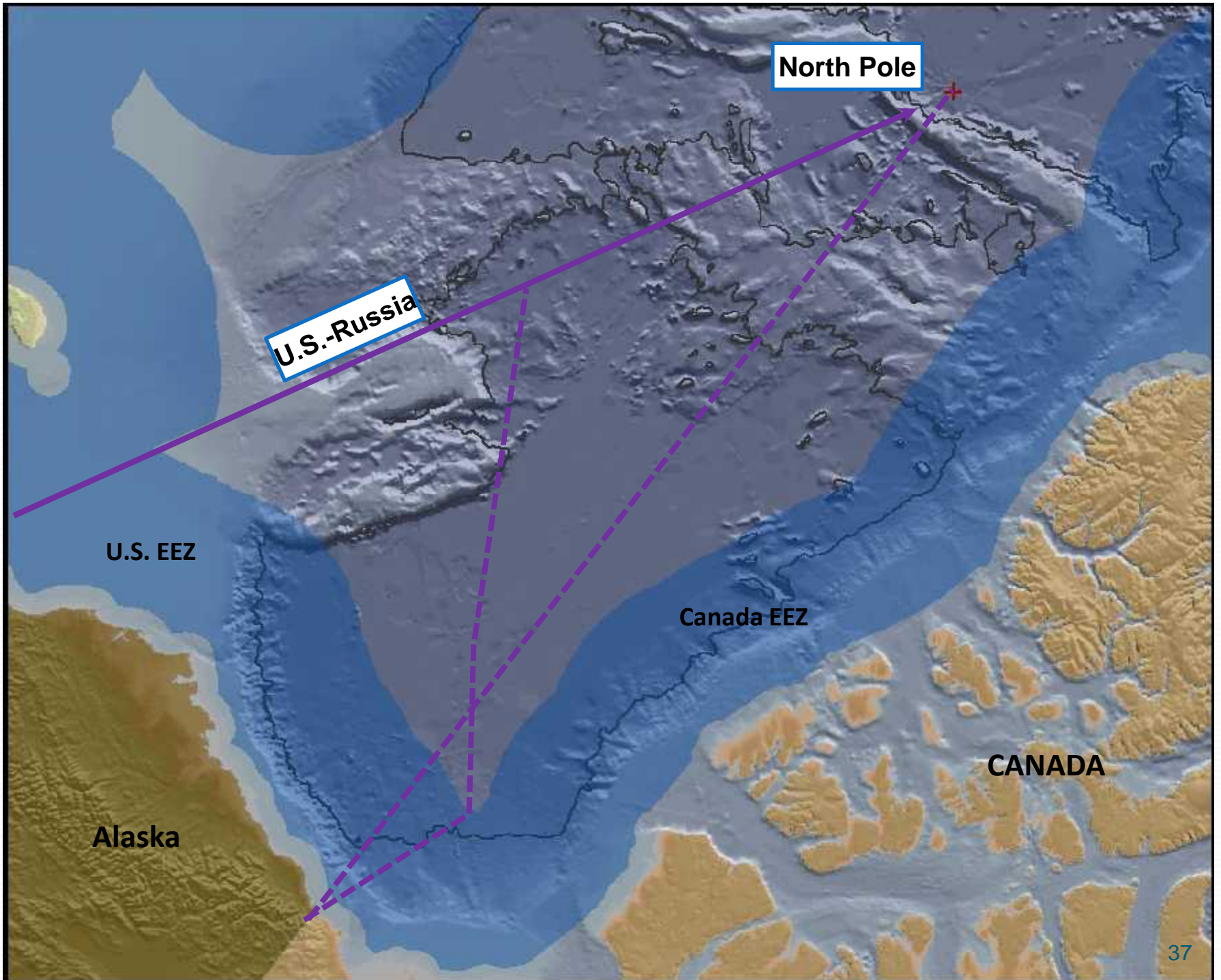


5.10B. Bathymetry from IBCAO in detailed area ARC, drawn bathymetric profiles, and possible locations of the FOS. Labeled profile is shown in figure 5.11. Note that the orange line, which represents the 2500 m + 100 nm, makes use of the 2500 m contour of the Alpha-Mendeleev Ridge as well as the Canadian shelf.

Healy 03-02, 04-05, 07-03

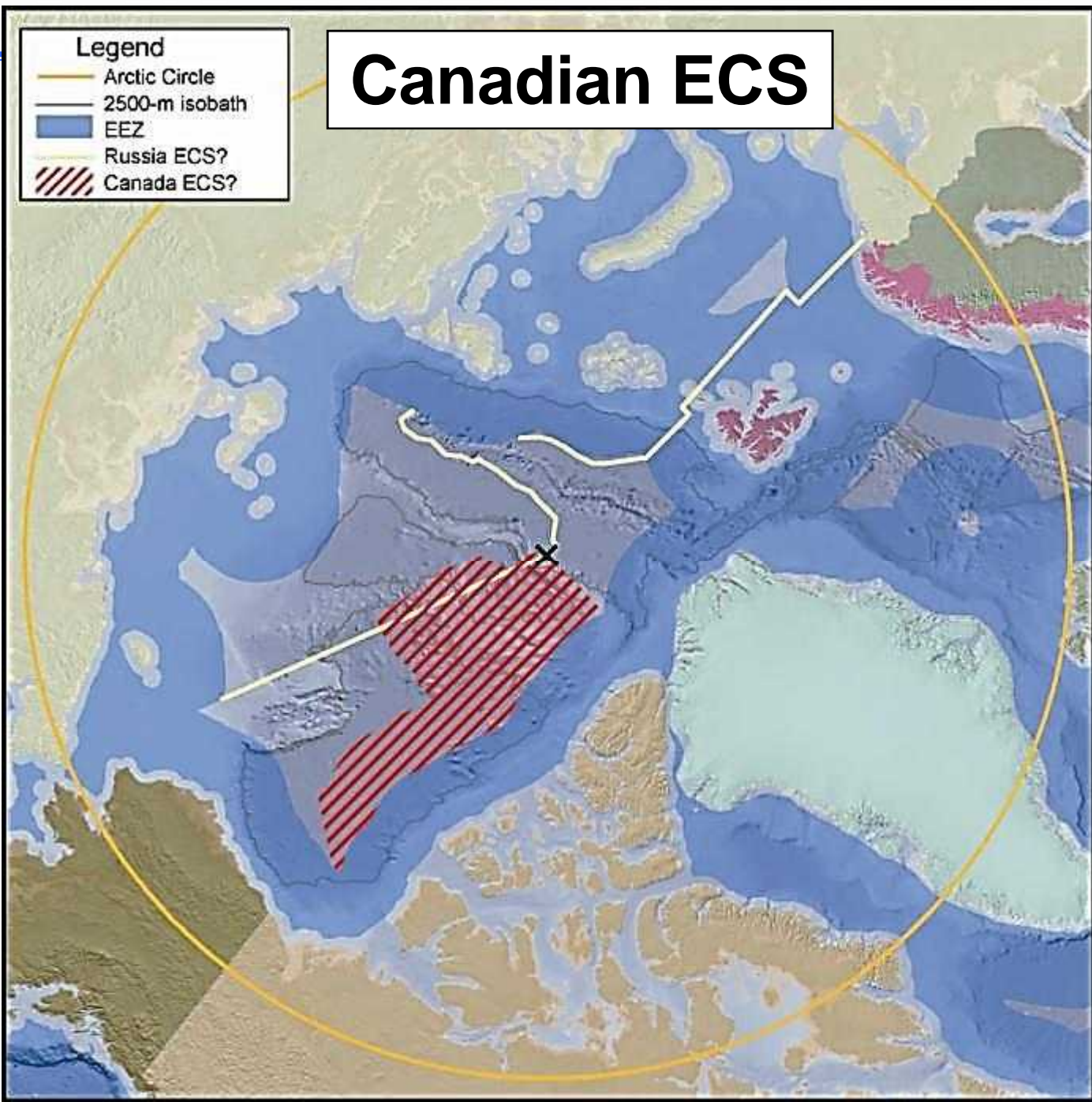






Canadian ECS

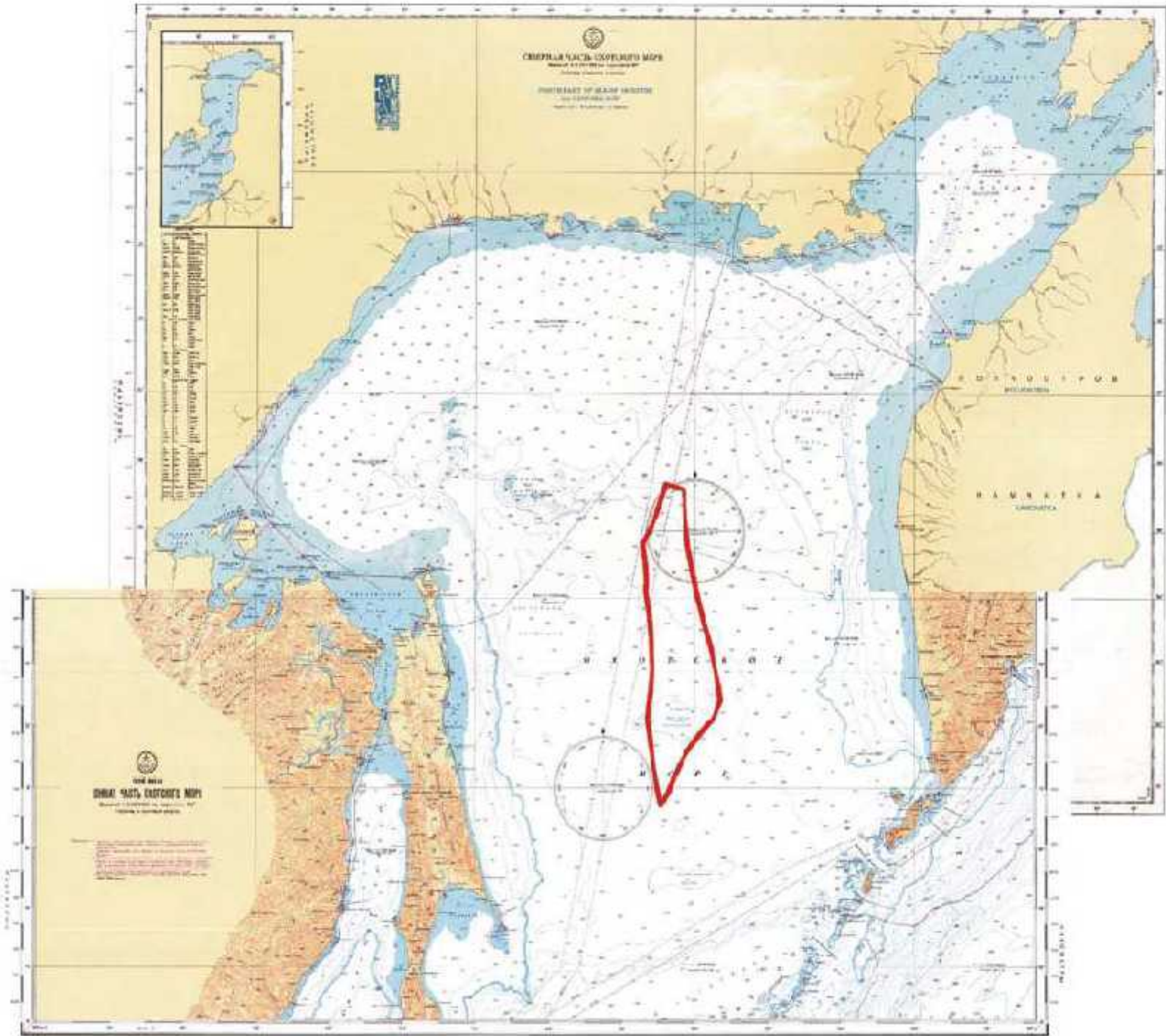
- Legend**
- Arctic Circle
 - 2500-m isobath
 - EEZ
 - Russia ECS?
 - Canada ECS?





Russian Arctic ECS Claim

- First ECS submission: 20 December 2001
- 27 June 2002 CLCS recommendation for better documentation
- Arctic partial revised submission expected in 2014
- Partial Revised Submission 28 February 2013 in respect of the *Enclave* in Okhotsk Sea
- Favorable CLCS recommendations 11 March 2014 accepted by Russia
- Entire seabed of Okhotsk Sea is continental shelf





Canadian Preliminary Information

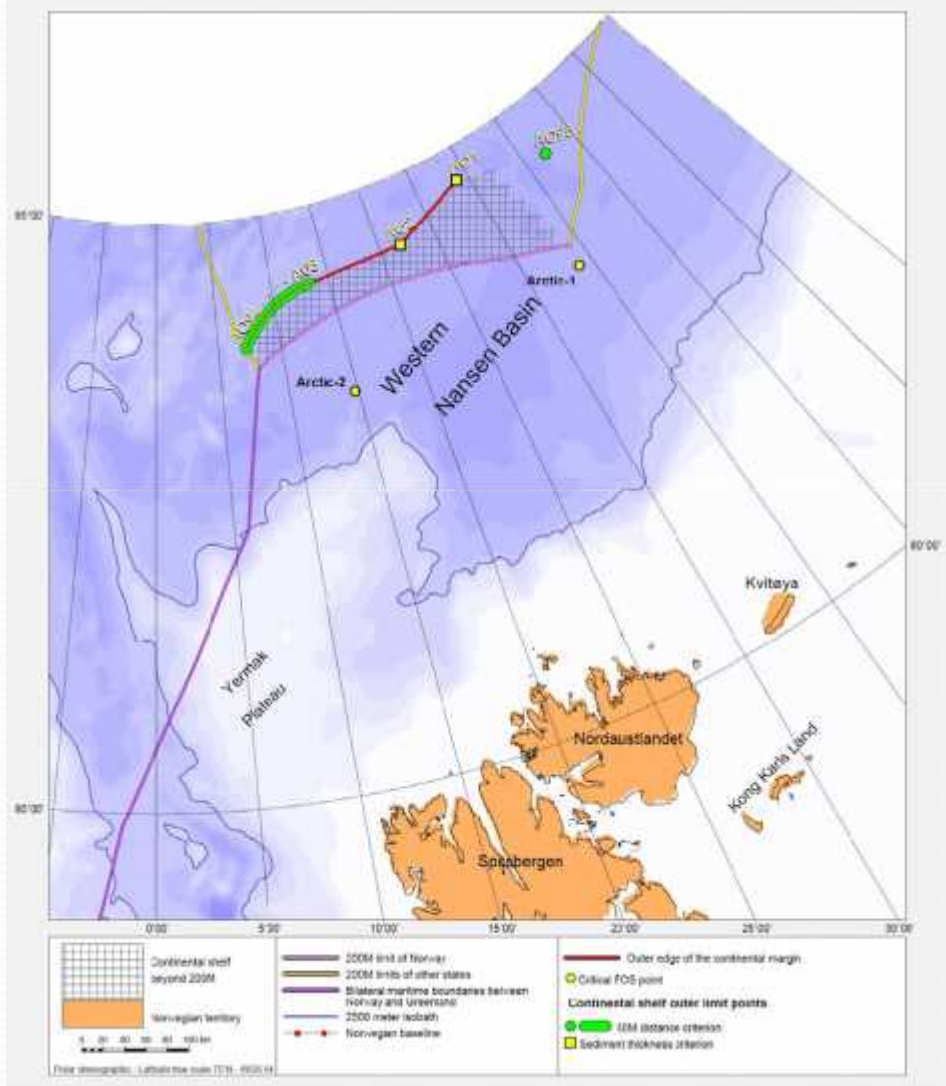
- Filed 6 December 2013 (LOSC EIF 7 December 2003)
- Canadian continental margin in Arctic Ocean part of morphologically continuous margin around the Canadian basin and along the Amundsen Basin
- Submerged prolongation of Canada's land mass beyond 200 nm from baselines
- Comprised of a number of seafloor elevations (Lomonosov Ridge and Alpha Ridge beyond the 350 nm constraint)
- PM Harper wants North Pole. So does Denmark. Maybe also Russia



Norway Arctic ECS Claim

- Submission 27 November 2006 for Arctic (Western Nansen Basin north of Svalbard), Barents Sea and North East Atlantic
- CLCS recommendations 27 March 2009
- Norway has not deposited with UNSG charts and relevant information, including geodetic data permanently describing the outer limits of the ECS (article 76(9))

Map showing the final outer limits of the continental shelf beyond 200 M from the territorial sea baseline of Norway in the *Western Nansen Basin area of the Arctic Ocean*



http://www.un.org/depts/los/clcs_new/submissions_files/nor06/nor_rec_summ.pdf
 (p.17)



Danish Arctic ECS Claims

- Submissions in 2009 for area north of Faroe Islands,
- in 2010 for Faroe-Rockall Plateau Region,
- in 2012 in respect of the Southern Continental Shelf of Greenland, and
- in 2013 for North-Eastern Continental shelf of Greenland
- Submission for north of Greenland expected later in 2014

ECS Boundaries

- Outer limits of ECS shall be **delineated** by straight lines NTE 60 nm, connecting fixed points defined by coordinates submitted to UNSG (LOS Convention article 76(7))
- Not prejudice **delimitation** of adjacent/opposite boundaries (article 76(10))
- Most ECS boundaries have not yet been delimited in the Arctic between adjacent or opposite States
- To the north of Svalbard and Franz Josef Land, the 2010 Russia-Norway maritime boundary agreement delimits areas of continental shelf beyond 200 nm. Respecting the Loophole in the Barents Sea, the 2010 Agreement delimits the shelf beyond 200 nm between them



ECS Boundaries to be delimited

- ECS adjacent/opposite boundaries to be delimited
 - Denmark (Faroes)-Iceland-Norway (southern Banana Hole) (provisional agreement in 2006 Agreed Minutes pending CLCS results)
 - Denmark (Greenland)-Norway
 - Denmark (Greenland)-Iceland
 - Denmark (Greenland)-Canada (Labrador Sea)
 - Denmark (Greenland)-Russia (central Arctic Ocean)
 - Canada–Russia (central Arctic Ocean)
 - Canada--USA (Beaufort Sea)
 - Canada--USA (Grand Banks)



Thank you for your attention

Questions?

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