

## The UK's continental shelf: aspirations beyond 200 nautical miles

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This short summary note is about the continental shelf regime. That regime has been around in international law for decades. But a topical issue is the so-called 'outer' or 'extended' continental shelf. (Article and annex references below are to the 1982 United Nations Convention on the Law of the Sea.)

The continental shelf regime is distinct from the EEZ regime (though the two have some important links). The continental shelf starts at the seaward limit of the territorial sea, and comprises the seabed and subsoil (Art. 76 (1)). The coastal State has sovereign rights for the purpose of exploring the shelf and exploiting the shelf's 'natural resources' (Art. 77 (1)). Those rights are exclusive (Art. 77 (2)). The natural resources of the shelf have economic importance – e.g. oil and gas. But the shelf's natural resources are not restricted to non-living resources; they also include living organisms belonging to so-called 'sedentary species' (Art. 77 (4)).

Assuming no spatial constraints imposed by neighbouring States, the outer limits of the continental shelf lie 200 nm from the baseline (like the EEZ) or at the 'outer edge of the continental margin' (Art. 76 (1)), whichever is further offshore. The outer edge of the continental margin is determined by geological and geomorphological criteria (Art. 76 (4)). Relevant data are required to apply those criteria. However, the maximum outer limits are 350 nm from the baseline or 100 nm from the 2,500 m submarine depth contour (Art. 76 (5)). The part of the continental shelf beyond 200 nm is known as the 'outer' or 'extended' shelf.

If a coastal State has an outer shelf, it has sovereign rights to explore that outer shelf and to exploit its natural resources. So, for example, it has the exclusive right to exploit 'sedentary species' and non-living resources (e.g. gas hydrates) of the outer shelf. But, as a corollary, it also has the right to regulate those activities in order to protect the marine environment. Certain duties regarding environmental protection also exist (e.g. Arts. 194 (5) and 208). The outer continental shelf is overlain by high seas. That raises the possibility of some interactions between the exercise of high seas freedoms in the waters overlying the outer shelf (e.g. bottom trawling for non-sedentary species, which may damage sedentary species) and a coastal State's rights regarding its outer shelf (e.g. the exclusive right to exploit sedentary species there).\*

A coastal State cannot unilaterally fix the outer limits of an outer continental shelf. Instead, there is a multilateral process it has to go through, involving a body called the Commission on the Limits of the Continental Shelf (CLCS) (Art. 76 (8) and Annex II). Step one involves the coastal State making a submission to the CLCS on the outer limits. Step two involves the CLCS making recommendations to the coastal State. In broad terms, the coastal State can then do one of two things. It can either accept the CLCS' recommendations, and establish outer limits on the basis of them, whereupon those limits become final and binding. Or it can disagree with the recommendations and make a revised or new submission to the CLCS.

The Law of the Sea Convention itself specifies that the deadline for making submissions to the CLCS is ten years from the date of entry into force of the Convention for the coastal State in question (Annex II). However, in 2001, the parties to the Convention decided that for States for which the Convention had entered into force *before* 13 May 1999, the deadline would be ten years from 13 May 1999 – thus falling in May 2009. In practice, the CLCS has only received nine submissions so far. There are concerns about whether all the relevant States will be able to meet the May 2009 deadline. There are also concerns about the heavy workload, both currently and forthcoming, of the CLCS. Even if the May 2009 deadline is met by all the relevant States, uncertainty about the outer limits of the continental shelf of any one of those States will remain until it has completed the multilateral process and has adopted valid final and binding limits. Furthermore, for States for which the Convention entered into force *on or after* 13 May 1999, the ten year deadline specified in the Convention itself still applies.

For the UK, the deadline for submissions to the CLCS falls in May 2009, because the Convention entered into force for the UK before 13 May 1999. The UK made a partial submission with three other coastal States in May 2006, regarding the outer continental shelf in the Celtic Sea and Bay of Biscay. Other submissions regarding the UK 'mainland' should be forthcoming. Submissions regarding certain UK overseas territories should also be forthcoming. (See stories in *The Guardian* dated 22.9.07 and 5.12.07.)

\* See further: Daniel Owen, 'The powers of the OSPAR Commission and coastal State parties to the OSPAR Convention to manage marine protected areas on the seabed beyond 200 nm from the baseline', a report for WWF Germany, February 2006; paragraphs 219-231. Available at: [http://www.ngo.grida.no/wwfneap/Projects/Reports/WWF\\_Owen\\_Jurisdiction.pdf](http://www.ngo.grida.no/wwfneap/Projects/Reports/WWF_Owen_Jurisdiction.pdf)

Some websites:

**Commission on the Limits of the Continental Shelf**

[www.un.org/Depts/los/clcs\\_new/clcs\\_home.htm](http://www.un.org/Depts/los/clcs_new/clcs_home.htm)

**UNEP Shelf Programme**

[www.continentalshelf.org/](http://www.continentalshelf.org/)

**UK Hydrographic Office**

[www.ukho.gov.uk/cons/lawSea.asp](http://www.ukho.gov.uk/cons/lawSea.asp)

**UK National Oceanography Centre**

[http://www.noc.soton.ac.uk/gg/unclos/NOCS\\_index.php](http://www.noc.soton.ac.uk/gg/unclos/NOCS_index.php)