



**National  
Foreign  
Assessment  
Center**

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# **Soviet Policy on Law of the Sea**

**An Intelligence Assessment**

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February 1979*

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# **Soviet Policy on Law of the Sea**

**An Intelligence Assessment**

Research for this report was completed on  
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## TABLE OF CONTENTS

	<i>Page</i>
Summary .....	iii
Background.....	1
Soviet Maritime Interests .....	2
Increasing Divergence Between US and USSR LOS Positions .....	4
Prospects .....	7
Appendix: .....	9
The Soviet Maritime Periphery: Sovereignty and Security Considerations ....	9
 Graphics	
Profile of Typical Continental Margin (diagram) .....	5
Barents Sea Continental Shelf Boundary Claims (map) .....	8
Baltic Sea Continental Shelf Boundary Claims (map) .....	10
USSR: Maritime Limits (map) foldout, rear .....	follows 12

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## Soviet Policy on Law of the Sea

Central Intelligence Agency  
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February 1979

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### Summary

The Third United Nations Conference on Law of the Sea has coincided with the emergence of the Soviet Union as a major maritime power. The earlier obsession with hostile encirclement appears to have been largely replaced by a global attitude toward the sea comparable to that of other major naval powers. The desire of the USSR to effectively employ its new high seas navy, expanded maritime fleet, and distant water fishing potential goes far in explaining the current Soviet behavior in the LOS negotiations, where it has come on as one of the stronger proponents of retaining the traditional high seas rights of navigation.

— Long distrustful of coastal state claims to broad economic zones, the USSR is making a last-ditch effort in the negotiations to erect strong treaty barriers against “creeping jurisdiction”—the tendency of coastal states to claim enlarged resource zones and establish restrictive controls over international navigation.

— Moscow’s efforts to limit coastal states’ jurisdiction over broad continental shelves and to disperse mid-ocean seabed mining sites are also spurred by its interest in retaining unobstructed navigational mobility in the oceans.

The Soviet Union’s territorial ambitions as well as its security concerns in its maritime periphery steer its late drive to modify the dispute settlement provisions of the draft LOS treaty.

— The USSR seeks to eliminate the obligation to submit maritime boundary disputes to binding settlement by outside parties. Success here would allow the USSR to continue pressuring Norway and Sweden to

make concessions on the location of the continental shelf boundaries in the Barents and Baltic Seas.

— The exclusion of bilateral maritime boundary disputes from compulsory procedures would also shield the Soviets’ novel Arctic sector claim from judicial review by the International Court of Justice or an arbitral body.

When the Soviets have tried to accommodate the interests of the developing countries, and thereby shed their conservative image as a defender of the status quo, they have stepped on the toes of the Western industrialized nations.

— Their support of restrictive production controls and quotas for seabed mining threatens to hamstring this new industry.

— Moscow’s inconsistent and seemingly self-injurious stance on coastal state control of marine scientific research jeopardizes the US goal of retaining some vestige of freedom of research in the 200-mile\* economic zone.

The USSR cannot continue to press on so many controversial points at the next session of the LOS Conference (opening March 19 in Geneva) and expect a comprehensive oceans treaty that would receive the consensus approval of a majority of nations. The Soviets are close to the point where they must choose between a treaty that is not altogether satisfactory to them or no treaty at all. It will be a very difficult choice for a state that harbors global maritime ambitions.

\* Distances throughout this study are in nautical miles unless specified otherwise.

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## Soviet Policy on Law of the Sea

Background 

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The first United Nations Conference on the Law of the Sea was held in 1958. This conference produced four conventions dealing with fisheries, the continental shelf, the high seas, and the territorial sea, but did not reach agreement on a maximum limit for territorial sea claims nor set a clear and precise limit to coastal state jurisdiction over resources of the continental shelf. The Second Conference, in 1960, again attempted to revolve the first question but was unsuccessful.

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That failure doomed the traditional 3-mile territorial sea limit.\* More and more states claimed broader limits. More than 20 percent of the coastal states now claim territorial seas in excess of 12 miles; among them a substantial number claim 200-mile territorial seas.

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In the mid-1960s, the US and USSR began diplomatic efforts to secure international agreement on standardized maritime claims to protect their navigational and overflight interests. Both nations hoped to limit territorial sea claims to 12 miles and balance coastal state resource interests in the zone beyond with the navigational rights of the international community. At the same time, the emerging corporate interest in mining deep seabed minerals caused the developing countries to push a resolution through the UN General Assembly declaring manganese nodules and other resources of the seabed beyond coastal state jurisdiction "the common heritage of mankind."\*\* These events led, in December 1973, to the beginning of the Third United Nations Law of the Sea Conference (UNCLOS III), which has held six negotiating sessions since then.

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\* The term "territorial sea" is understood in international law to mean those coastal waters over which a nation has complete sovereignty, conditioned only by the right of "innocent passage" (which in turn is defined as vessel passage not prejudicial to the "peace, good order, and security" of the coastal nation). The distinguishing feature of the zones beyond territorial seas—be they fishing, economic, or other specialized maritime zones—is that the nation involved is claiming jurisdiction or rights less than the sovereign rights it possesses in the territorial sea.

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\*\* The resolution has no legal force. Further, the common heritage concept has no precise meaning in international law and tends to be used in differing ways by the various delegations to the LOS Conference.

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UNCLOS III has coincided with the emergence of the Soviet Union as a major maritime power. The earlier obsession with hostile encirclement appears to have been largely replaced by a global attitude toward the sea comparable to that of other major naval powers. The desire of the USSR to effectively employ its new high seas navy, expanded maritime fleet, and distant water fishing potential goes far in explaining the current Soviet behavior in the LOS negotiations, where it has come on as one of the stronger proponents of retaining the traditional high seas rights of navigation.

The LOS Conference is a difficult negotiating environment for the USSR. As a major maritime power, it has played an active role in support of conservative proposals and has tried to contain initiatives for change that it views as detrimental to its security interests. To that end, Moscow joined the caucus called the Group of 5, representing the major industrial/maritime powers—the US, UK, France, Japan, and USSR. The Soviets have also pressured their East European allies to back up their defense of the traditional concepts of narrow territorial seas and freedom of navigation in straits. This conservatism and convergence of interests with the US and other major industrial nations has prompted the Chinese to charge repeatedly that the superpowers are colluding to increase their power and wealth at the expense of the developing nations.

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The major political reality of UNCLOS III, however, is its numerical domination by the 117 developing countries, which generally question the universal application of ocean concepts fashioned in the past by major maritime powers. Their UN negotiating caucus—the Group of 77—has further introduced the North-South dialogue into the LOS negotiations by demanding that deep seabed mining be controlled by an International Seabed Authority (ISA), a proposed UN-linked institution which they seek to control.

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The strong Soviet interest in the outcome of the Conference has thrust the USSR into the limelight, in marked contrast to the low visibility it has enjoyed in other North-South forums such as the Common Fund meetings.

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Soviet Maritime Interests [redacted]

Navy and Merchant Marine [redacted]

The postwar growth of the Soviet Navy and Merchant Marine has been remarkable. Before 1969 Soviet warships rarely ventured outside their home waters, but since then they have routinely plied the world ocean. The Soviet Navy has been greatly strengthened over the past 20 years by an ambitious ship construction program involving both general purpose naval forces and ballistic missile submarines. [redacted]

In 1960 the USSR merchant fleet ranked 26th in the world in number of ships; now the Soviet Union ranks second or (on some lists) third. In deadweight tonnage, the Soviet fleet totaled 4.2 million tons in 1961. By 1974, the fleet had grown to 14.2 million tons, placing it seventh in the world. Additional capacity is reportedly being introduced at a rate of nearly 1 million tons yearly. [redacted]

The Soviet Union's LOS policy is largely guided by its concern over the problem that its naval vessels must pass through certain vital straits and seas in order to reach the oceans. These strategic passageways are the Barents and Norwegian Seas, the Danish Straits, and the Bosphorus and the Dardanelles. Moscow has long been sensitive to any proposals or events that might alter the status of these waters. [redacted]

The USSR's determined effort to preserve as much as it can of existing high seas freedoms of navigation is primarily related to maintaining the strike role of its navy. In addition, however, the navy has become one of the principal means by which the Soviets project political power in the Socialist Bloc and the Third World. In February 1979, for example, the USSR deployed warships off the Vietnamese coast in response to the buildup of Chinese ground forces across Hanoi's northern border. Combat ships and naval auxiliaries are routinely deployed to the Mediterranean Sea, the Indian Ocean, and the west coast of Africa. Together with Soviet merchant vessels, they have supplied extensive material support to client regimes and liberation movements. By show-the-flag port calls and by establishing a more-or-less permanent presence in Third World harbors, the navy performs a mission of growing importance. [redacted]

Straits Passage [redacted]

The USSR has long advocated and claimed a 12-mile limit for the territorial sea but also strongly endorses freedom of navigation and overflight for straits that connect high seas and are used for international

navigation—even if they would be overlapped by a 12-mile limit. This concept has been accepted by the LOS Conference and is embodied in the draft text of the proposed treaty as the regime of "transit passage." [redacted] 25X1 25X1

Acceptance of "transit passage" through international straits would rule out governance of vessel transit by the principle of "innocent passage" which, among other restrictions, requires submarines to remain on the surface and show their flags when passing through territorial waters. States bordering straits would also be barred from promulgating further arbitrary regulations that might close such critical passages as Gibraltar, Dover, Bab-el-Mandeb (at the southern end of the Red Sea), Hormuz (at the entrance to the Persian Gulf), several straits in the Caribbean, and Malacca. [redacted] 25X1 25X1

By limiting the applicability of transit passage to those straits used for international navigation, the draft LOS text indicates that the principle of innocent passage still applies to other straits. This provides the USSR with an arguable right to retain the rule of innocent passage in the several straits along its Northern Sea Route which, Moscow could assert, have never been used for international shipping. The Soviet definition of innocent passage requires prior consent for the transit of foreign warships. [redacted] 25X1 25X1

Regarding the Danish and Turkish Straits, there is a tacit understanding between the USSR and other concerned states that the legal regimes of these passages, having been established by custom or earlier international agreements, will not be changed by a new oceans treaty. The Montreux Convention presently governs the Bosphorus and Dardanelles and places restrictions on Soviet warships exiting the Black Sea. Although the Soviets hold that a high seas regime of unimpeded transit exists in the Danish Straits, they usually adhere to Denmark's prohibition of the passage of more than three foreign warships simultaneously, and they comply with the Danish requirement that naval transits be made only during daylight hours. [redacted] 25X1 25X1

Economic Zones [redacted] 25X1

The USSR's concern for safeguarding its naval mobility has also been reflected in its attitudes toward the concepts of 200-mile fishing or economic zones. Soviet naval leaders fear that state jurisdiction over ocean resources and vessel pollution out to 200 miles could be interpreted or extended in scope to include control over shipping through waters which are now high seas. The passage of nuclear powered submarines, 25X1 25X1

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for example, could be considered a pollution hazard that coastal states might try to bring under their control. [redacted]

The Soviets firmly opposed the principle of the 200-mile economic or fishing zone until they were overwhelmed by weight of numbers in the LOS Conference, the recognition of 200-mile resource zones having become the sine qua non of the treaty for the numerous developing coastal states. Moscow later established its own 200-mile fishing zone as a defensive reaction to the North American and West European 200-mile zones and acceded to the inevitability of the principle in the LOS negotiations. [redacted]

Debate at UNCLOS III has produced a compromise legal definition of the economic zone and a complex array of checks and balances that purport to accommodate the varied—and often contradictory—interests of coastal states and the international community. The waters between 12 and 200 miles from shore are no longer defined as high seas, but vessels of all states continue to enjoy high seas freedoms of navigation and overflight beyond 12 miles. The draft articles, however, tilt clearly toward the coastal states. They endow the coastal states with powers to determine the allowable fish catch and allocate it among competing distant-water fishermen. They also place marine scientific research by foreign nations under the jurisdictions of the coastal states. [redacted]

#### Archipelagoes [redacted]

Certain proposals for archipelagic regimes have also furrowed the Soviet brow. The proposals of Indonesia, the Philippines, Fiji, and other states for archipelagic regimes enclosing the waters of their island dominions met initially with strong Soviet resistance. Soviet (and US) objections apparently have been satisfied by the willingness of Indonesia to designate sea lanes and air routes through its archipelago for the “expeditious and unobstructed transit” of ships and aircraft. Still, Soviet and US acceptance is conditioned upon the completion of a comprehensive oceans treaty that safeguards their navigational interests in straits and economic zones. [redacted]

#### Continental Shelf [redacted]

At the beginning of the LOS Conference, the USSR suggested that the outer limit of coastal state jurisdiction over the oil and gas resources of the continental shelf be fixed either at 200 miles or at the 500-meter isobath (depth line), whichever is farther seaward. It was uncertain at the time why the Soviets favored such a conservative formula. It now appears that Moscow

has long feared the threat to navigation that could ensue from creeping additions to the jurisdiction of coastal states jurisdiction of coastal states in situations where the shelf extends far beyond the 200-mile economic zone. The demands of the states possessing broad continental margins for delimitation of the shelf by the so-called “Irish Formula” \* could, indeed, lead to the award of jurisdiction over shelves reaching hundreds of miles to sea. [redacted]

#### Navigational Mobility [redacted]

The Soviet concerns for their navigational freedoms in coastal state resource zones spring from their defense needs and geographical location. The vessels of the Soviet Northern Fleet, based on the Kola Peninsula bordering the Barents Sea, must transit the economic zones of several NATO nations to reach the high seas. Attempts by Norway, Denmark, the UK, and Iceland to control warship transits in their resource zones could dramatically alter the nature of Soviet naval operations. Such actions, the Soviets fear, could impede access of the Northern Fleet to the Atlantic Ocean. [redacted]

Soviet strategic interests also require that USSR naval vessels enjoy unimpeded rights of transit between the Atlantic and Pacific Oceans. The Northern Sea Route is only navigable in summer. The southern approaches involve transiting numerous national economic zones and archipelagic zones, whether Soviet vessels proceed around Southern Africa or through the Mediterranean Sea, Red Sea, and Gulf of Aden. Unequivocal high seas freedom of navigation through this maze of resource zones would free the Soviet Navy of the burden of coping with onerous coastal state regulations affecting warship transit. Consenting to restrictive rules could slow the passage or limit the type and number of naval vessels moving through these regions, while protests or violations could be detrimental to Moscow’s relations with the littoral states involved. [redacted]

#### Distant Water Fishing [redacted]

The most severe economic challenge facing the USSR in the oceans is the need to adjust the practices of its fishing fleets to the new 200-mile coastal state economic zones. The Soviet catch, currently second only to Japan, provides one-third of the animal protein and about 15 percent of all protein in the Soviet diet. In 1975 roughly 60 percent of the Soviet harvest of 10 million metric tons was caught within 200 miles of

\* See page 5 for a discussion of the Irish Formula and a list of the “broad-margin” states.

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foreign coasts. To ensure continued access to these productive fishing grounds, the Soviets are fostering extensive foreign assistance and joint venture programs. [redacted]

#### Increasing Divergence Between US and USSR LOS

##### Positions [redacted]

At the most recent sessions of the LOS Conference the negotiating positions of the USSR and the US have differed on a number of significant issues, both substantive and procedural. Moscow and Washington have long disagreed, for example, on important aspects of the seabed mining and marine scientific research issues. Now the US and USSR differ on the definition of the legal status of the economic zone and on specific dispute settlement procedures in the economic zone; the US finds the texts satisfactory on these two subjects, but the USSR seeks to amend the present draft articles to tilt the treaty in the direction of the maritime powers. The Soviets are also raising the stakes at the conference, by linking their approval of the broad continental margin concept to the exemption of maritime boundary disputes from third-party dispute settlement procedures. [redacted]

##### Seabed Mining [redacted]

After prolonged negotiations, the LOS Conference has come to accept the broad outline of a parallel system for exploiting the manganese nodules found in the ocean depths beyond the limits of coastal state jurisdiction. Under this system, both corporations and states would share with the Enterprise, the mining arm of the ISA, the right to mine the deep seabeds. [redacted]

But there still is a wide gap between industrialized and developing countries on the nuts and bolts of the plan: yet to be determined are the extent of the royalties and fees that mining firms should pay the ISA for the right to mine, the nature and extent of production controls, and the provisions for transferring technology and know-how from the firms to the Enterprise. The Group of 77 and the industrialized nations are even farther apart on the sensitive issue of working out a system of governance for the ISA. [redacted]

Essentially, the developing countries feel that the negotiating situation in the LOS Conference offers an opportunity to restructure one segment of the world economy in a way favorable to them. To that end they are withholding agreement on the navigation interests of the naval powers until they achieve a resolution of the seabed mining issue consistent with their hoped-for New International Economic Order. [redacted]

The mining issue, however, also divides the Group of 5. Like the US, Moscow wants guaranteed access by all countries to seabed resources on an equal legal footing with the Enterprise. But the USSR and France oppose unlimited access by private corporations and support a quota concept that would limit the number of minesites available to a state and its nationals. The Soviets are also adamantly opposed to competition between states, or between states and private firms, for seabed mining contracts. [redacted]

The Soviets have proposed there be limits both on the total area of the seabed and on the portions of certain defined regions of the seabed that a single state or its companies could exploit. The Soviets also favor establishing a preference for states which have not yet received any contracts over states which have already received a certain number of contracts. [redacted]

Further, in support of efforts of the Group of 77 to protect land-based mineral producers against the competitive effects of future manganese nodule mining, Moscow backs a formula that would prohibit seabed mining from supplying more than 65 to 75 percent of the growth in the world nickel market for the first 20 years of the industry. The United States opposes these ideas, feeling that their implementation would hamstring the new industry. [redacted]

The Soviet Union's concerns over seabed mining can be grouped in three categories:

— First, Moscow wants assurance that prime minesites will still be available when Soviet industry needs minerals from the seabed at some point in the future. The Soviet Union supports quotas and production limitations in order to inhibit American access to seabed minerals and thereby prevent a foreclosure of its own future resources options that could result from unfettered exploitation by US and multinational firms.

— Second, Moscow wants to protect its present and anticipated hard minerals exports. The massive investments in extractive and processing facilities in the Soviet Arctic regions are not expected to begin paying off until several years from now, by which time competition from an American-dominated seabed industry in the world nickel and copper export markets could be injurious.

— Third, the USSR fears the prospect of US domination of large areas of the deep seabed. Soviet naval authorities have indicated concern that international waters above seabed minesites might become "areas of influence" of the Western democracies. They may believe that rights to exploit large tracts of seabed

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could lead to controls on the cruising of naval (and merchant) vessels in waters above mining operations. Probably for this reason, the Soviets insist that the seabed mining sites allotted to each nation be geographically dispersed. [redacted]

Having neither the need nor the desire (nor, indeed, the capability) to begin exploiting the seabed itself anytime soon, the USSR seeks to gain political capital with the Third World on the seabed issue whenever the opportunity presents itself. At the most recent LOS session in New York, the Soviets joined the Group of 77 in condemning the seabed mining legislation pending in the US Congress, stating that such unilateral action is illegal and could have a destructive effect on the LOS Conference. [redacted]

**Delimitation of Broad Continental Margins** [redacted]

The 1958 Geneva Convention on the Continental Shelf failed to precisely delineate the outer limits of coastal state jurisdiction over the resources of the continental shelf. That document authorized coastal state authority over the shelf "to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources ..." Most coastal states possessing

broad continental margins \* extending far to sea embraced the 1958 Convention; some incorporated it in their municipal legislation; and some have licensed exploration for oil and gas in regions well beyond 200 miles from shore. These "broad-margin" states—the United States, Canada, Argentina, Ireland, the United Kingdom, Norway, Mauritius, India, Australia, and New Zealand—came to UNCLOS III seeking codification in a new oceans treaty of their practice of claiming and exercising resource rights over very broad areas of the continental shelf. [redacted]

The broad-margin states favor a complex proposal of the Irish delegation to measure the new legal continental shelf. According to the Irish Formula, whenever the continental margin extends beyond 200 miles, the coastal state can adopt one of two criteria for delimiting the outer edge: jurisdiction might extend to a maximum of 60 miles beyond the foot of the slope or, alternately, to the line where the depth of sediments in the subsoil falls below one percent of the distance between it and the foot of the slope. [redacted]

\* The continental margin, consisting of the shelf, slope, and rise, is the geomorphological term for the undersea prolongation of the continental land mass. The term continental shelf is used here in the legal sense, that is, to denote the seafloor under the resource jurisdiction of the coastal state.

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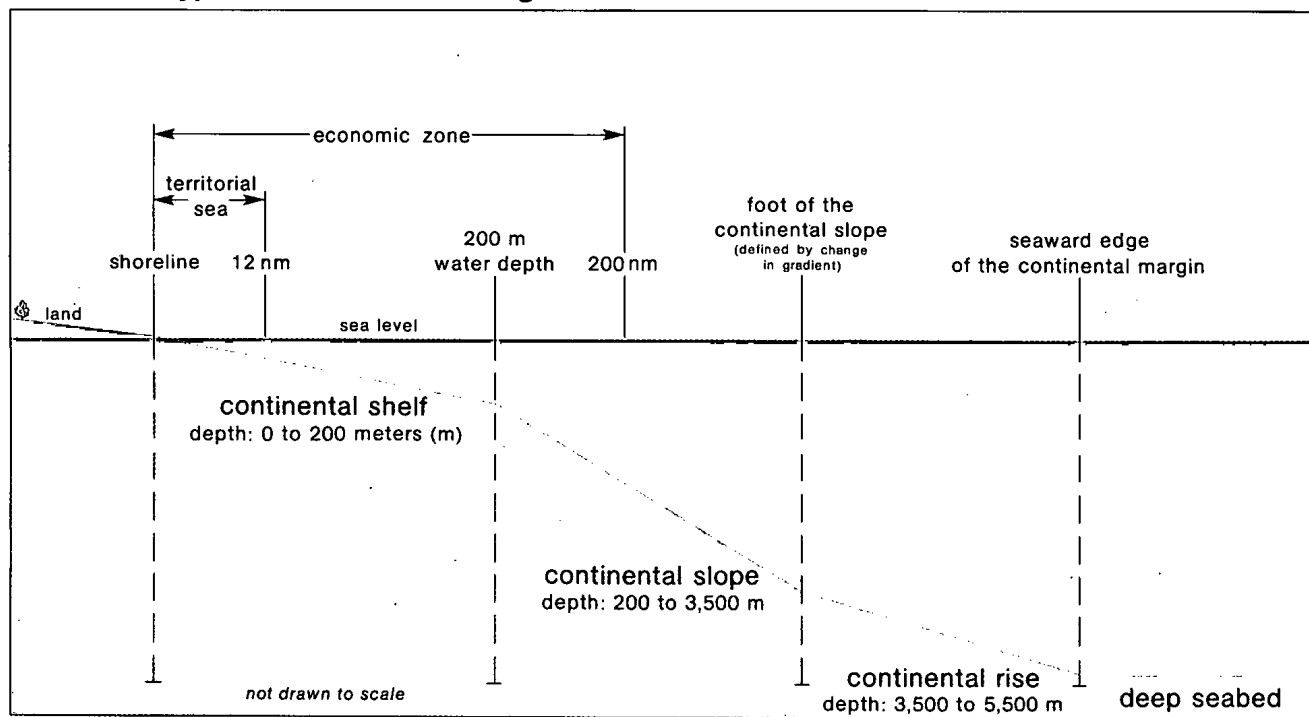
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**Profile of Typical Continental Margin**



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The Arab states have steadfastly opposed the Irish formula, arguing that the width of the shelf should coincide with the economic zone; that is, it should be limited to 200 miles. This would place hydrocarbon deposits beyond 200 miles under the domain of the ISA, in which the Arabs would have a voice. [redacted]

space to coastal states is not really in the best interests of a naval power such as the United States. [redacted]

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*Dispute Settlement Procedures* [redacted]

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The USSR has also consistently resisted proposals for far-reaching coastal state jurisdiction over the shelf. Their initial proffer of 200 miles out or 500 meters down found few adherents, however. The Soviets say the Irish Formula is too complex and also expensive, in that nations would incur considerable deep drilling costs to determine sediment depth. At the most recent session, the Soviet delegation offered a compromise formula; coastal state jurisdiction over the margin, where it extends beyond 200 miles, to a maximum additional distance of 100 miles if such extension is justified by sound geological evidence. [redacted]

The United States seeks a broad regime that would provide for an orderly settlement of maritime disputes and for the uniform interpretation and application of a new Law of the Sea Treaty. As the means of adjudicating disputes, the draft text of the treaty (which the US approves) offers future signatories the choice of a new Law of the Sea Tribunal, the International Court of Justice, or an arbitral tribunal. A complex set of draft obligations, procedures, applications, and exceptions establishes the legal processes. [redacted]

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The Soviet Union has two serious problems with the text on dispute settlement. The draft treaty exempts maritime boundary disputes from settlement under the terms of the Convention, provided that binding regional or other third-party procedure is accepted instead. This is unacceptable to the Soviets, who demand that disputes between opposite and adjacent states over the delimitation of their sea boundaries be automatically excluded from all compulsory and binding procedures. They contend that no sovereign state should be subject to any obligatory procedure in resolving such matters. [redacted]

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Support for the Soviet 300-mile proposal by the East European countries, Cuba, and Haiti stalled the movement toward consensus that had been building for the Irish Formula. Although some LDCs suspect the Soviet 300-mile proposal may be a negotiating ploy, they are attracted by its simplicity. Many believe that under the Irish Formula they would find it difficult to calculate and enforce their shelf limits. [redacted]

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During the recent intersessional period, a Soviet delegate floated another compromise idea: that of having two regimes for the shelf. One would coincide with the economic zone; the other could extend out to the 2,500-meter isobath, or for an additional 150 miles, whichever is farther seaward, but would restrict coastal state jurisdiction over non-resource uses of the shelf, such as the conduct of marine scientific research by the international community. [redacted]

[redacted] the USSR would not give way on the issue of determining the outer limits of the continental shelf unless the issue of compulsory third-party settlement of sea boundary disputes was resolved to its satisfaction. In effect, the Soviets were demanding the broad-margin states come to their aid on the dispute settlement issue in return for Soviet cooperation on the shelf issue. This ploy is unlikely to succeed, however, because the small broad-margin group appears to have little influence over the countries that have a strong interest in assuring procedures for the compulsory settlement of maritime boundary disputes. [redacted]

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Once again, the USSR is motivated by concern over potential legal impediments to the mobility of its fleet. The Soviets state that the Irish Formula would allow Australia to claim a 600-mile continental shelf around Heard Island in the Indian Ocean; that the UK and New Zealand could claim zones in various areas ranging from 400 to 500 miles wide. The Soviets also contend that as new geological information became available broad-margin states would want to further extend the outer boundaries of their margins. [redacted]

The second dispute settlement issue that deeply troubles the USSR concerns judicial procedures for resolving fishing disputes in the economic zone. The Soviets are disturbed that most challenges of a coastal state's discretionary powers over fisheries conservation and utilization are not subject to binding dispute settlement. The present text finesses the topic by subjecting such disputes to a procedure of "compulsory conciliation" which requires parties in dispute to negotiate their differences but does not mandate a binding settlement. Moscow feels that its historic distant water fishing rights will not be adequately

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Even though such NATO states as Norway, the UK, and Canada would be among the primary beneficiaries of the Irish formula, the Soviets are mystified by the US support for the Irish Formula. Moscow feels that the award of large expanses of ocean and shelf

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protected against capricious acts of coastal states by such a mechanism. Soviet lobbying for stronger procedures, however, has been forcefully resisted by the coastal states. [redacted]

#### Marine Scientific Research [redacted]

The United States and the Soviet Union have split sharply on the issue of how much authority the coastal states should possess over the conduct of marine scientific research in their economic zones and on their continental margins. The US objective of freedom of scientific research in these zones is in considerable jeopardy, for the negotiating text now proposes a regime wherein all research is subject to coastal state control. [redacted]

The US prefers a so-called "notification" system. Under this concept all fundamental research—that is, research not related to resources—would be authorized upon the serving of notice to the coastal state, subject only to specific limitations and procedures as stipulated in the treaty. Research that is resource-oriented, that involves drilling into the continental shelf, or the use of explosives, or the utilization of artificial islands or similar installations would, however, require the consent of the coastal state. [redacted]

The proponents of a full consent system received unexpected support for their position in 1976 when the USSR, in an abrupt about-face, accepted the principle of coastal state control over all research in resource zones. This change in position was out of character for the Soviet Union which, with a large and growing interest in marine scientific research, had been expected to remain a defender of the traditional high seas freedom of unencumbered scientific research. The reasoning behind the switch has never been made clear. It may simply have been a case of recognizing the overwhelming support of the developing coastal countries for the consent regime. Soviet sensitivity to research off its own coasts might also have been a factor. [redacted]

The vacillations in USSR positions on the continental shelf and on marine scientific research bring the Soviet LOS decision-making processes into question. It appears the Soviets may have underestimated the desires of the broad-margin states for jurisdiction over

vast areas of continental shelf. And, if they chose the scientific research problem as an issue on which to separate themselves from the industrial democracies, hoping to collect some political capital from the Group of 77 and offset Chinese allegations of superpower collusion, it may turn out to be a far more expensive concession than they realized. [redacted]

#### Legal Status of the Economic Zone [redacted]

Nowhere is the USSR treading on more sensitive ground than in its last-minute challenge of the draft agreement on the coastal state economic zone. Lengthy and intense negotiations have produced delicately balanced texts that apparently accommodate the interests of the majority of developing coastal states as well as most of the major naval and maritime nations. The delegates have crafted a series of articles that assure high seas freedoms of navigation and overflight for all states in the economic zone but also make it clear that the zone is no longer part of the high seas. The text provides the coastal state with sovereign rights over the exploration for and exploitation of resources, and jurisdiction over marine scientific research, preservation of the environment, and the establishment of artificial islands, installations, and structures. [redacted]

The Soviet Union has proposed instead that the economic zone enjoy high seas status, in which case the coastal state would not be sovereign. The coastal states overwhelmingly oppose this idea. The developing countries among them view the LOS negotiations as a means of establishing a new, more equitable economic system and see this proposal as just one more attempt by the industrialized states to maintain the global status quo. [redacted]

#### Prospects [redacted]

The USSR cannot continue to press on so many controversial points at the next session of the LOS Conference (opening March 19 in Geneva) and expect a comprehensive oceans treaty that would receive the consensus approval of a majority of nations. The Soviets are close to the point where they must choose between a treaty that is not altogether satisfactory to them or no treaty at all. It will be a very difficult choice for a state that harbors global maritime ambitions. [redacted]

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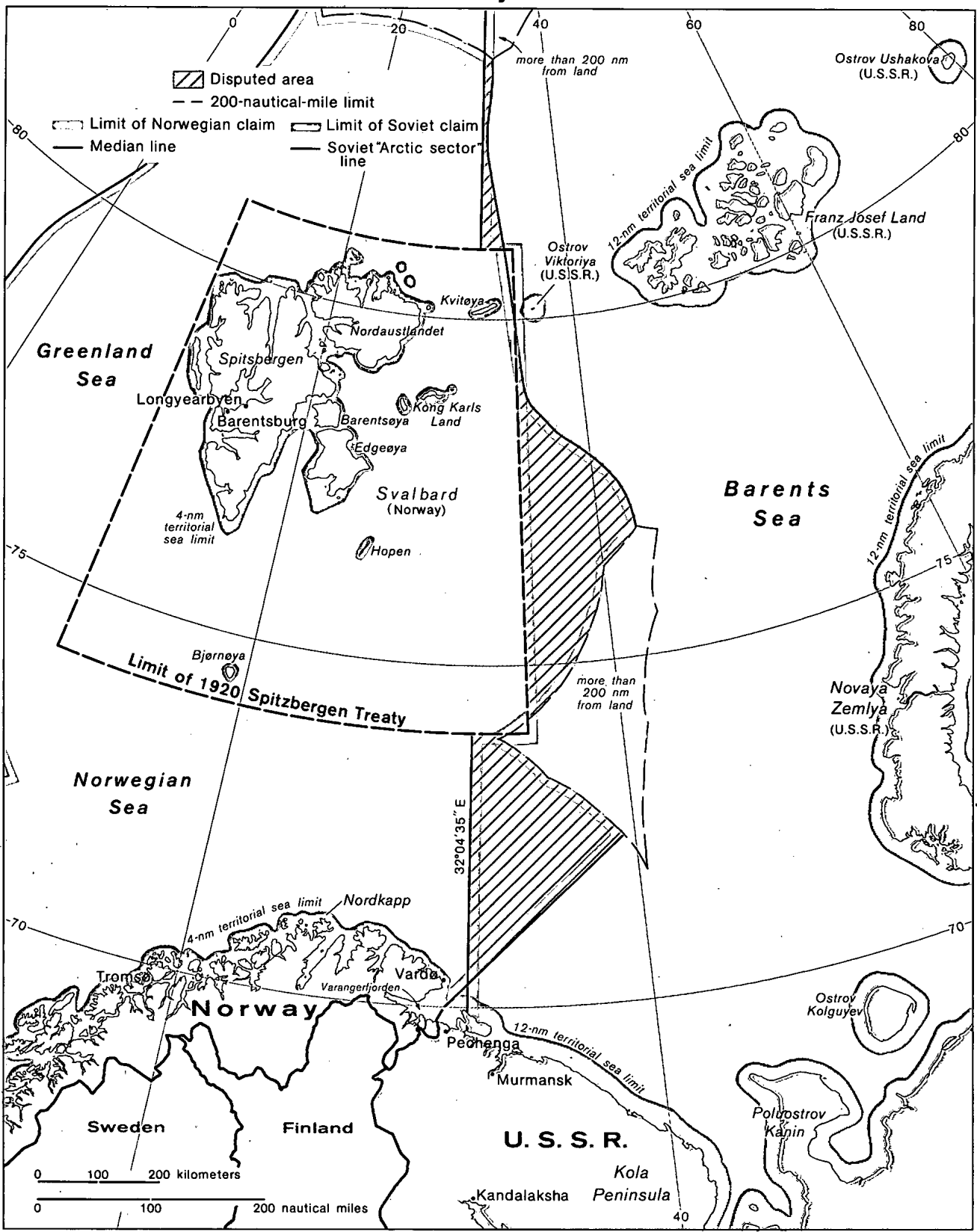
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### Barents Sea Continental Shelf Boundary Claims



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## Appendix

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The Soviet Maritime Periphery:  
Sovereignty and Security Considerations

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*The Arctic Sector* \*

As technological advances of this century, especially in aviation, made the frozen north more and more accessible to other powers, the USSR sought to gain both physical and legal control over the Arctic waters, islands, and air space adjoining its long northern coast. In 1926 Moscow issued a decree claiming all lands and islands within a triangular sector bounded by the northern coast of the USSR and the meridians passing through its eastern and western limits (32°04'35"E and 168°49'30"W). In 1928 and again in 1950 the Soviet press advanced a claim to the open polar seas within this sector as well, but Moscow has not formalized this claim. Some Soviet writers assert that the lands and waters of the Arctic Ocean have unique characteristics that justify special legal treatment. Since this theory is not based on any generally accepted international legal precepts and has never been litigated in international courts of law, however, it does not provide a firm basis for determining jurisdiction.

Soviet writers have used terms such as "internal waters," "historic waters," and "closed seas" in describing numerous Arctic coastal water bodies. Internal water status, denoting complete sovereignty, has at times been claimed for the Kara, Laptev, White, East Siberian, and parts of the Barents and Chukchi Seas, either on the basis of historic factors or because the ice cover is a "land-like" entity that encloses them on the seaward side. Recent Soviet publications, however, list in the Arctic only the White Sea and a few bays in this category.

US icebreakers, aircraft, submarines, and drift stations have tested these Soviet claims to Arctic waters. The USSR has been flexible in regard to its sector and internal seas claims, but it has resolutely maintained authority over foreign naval vessel transits of its 12-mile territorial sea and straits overlapped by the territorial sea.

\* Foldout map at rear shows maritime limits and claims in seas surrounding the USSR.

*Barents Sea Continental Shelf Boundary*

25X1

The delimitation of the continental shelf and fishery zone boundary in the Barents Sea has been the subject of sharp debate between the USSR and Norway since 1970. The area in question is a rich fishing ground; furthermore, seismic surveys indicate the presence of thick continental shelf sediments that may contain oil and gas deposits.

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The Norwegians favor a median-line shelf boundary equidistant from adjacent and opposite coasts, while the USSR demands that the western boundary of its self-declared Arctic sector be used to partition the maritime zones. At stake are 132,000 square kilometers of shelf.

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Oslo has signaled that its negotiating position is flexible, meaning that it might accept a boundary drawn somewhat to the west of a true median line, but the USSR has shown no inclination to compromise, preferring to sit on its sector-line offer and wait for further Norwegian concessions. The USSR does make occasional references to the inclusion of the boundary settlement issue in a bilateral northern issues "package" that might also embrace the controversy over whether the signatories to the 1920 Treaty Concerning Spitzbergen enjoy rights to exploit the resources of the continental shelf in the treaty area surrounding Svalbard.

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International law on shelf delimitation is defined by the 1958 Geneva Convention on the Continental Shelf, to which both the Soviet Union and Norway acceded. The Convention sets down the applicability of the median or equidistant line, but also indicates that special circumstances may warrant departures from the median line.

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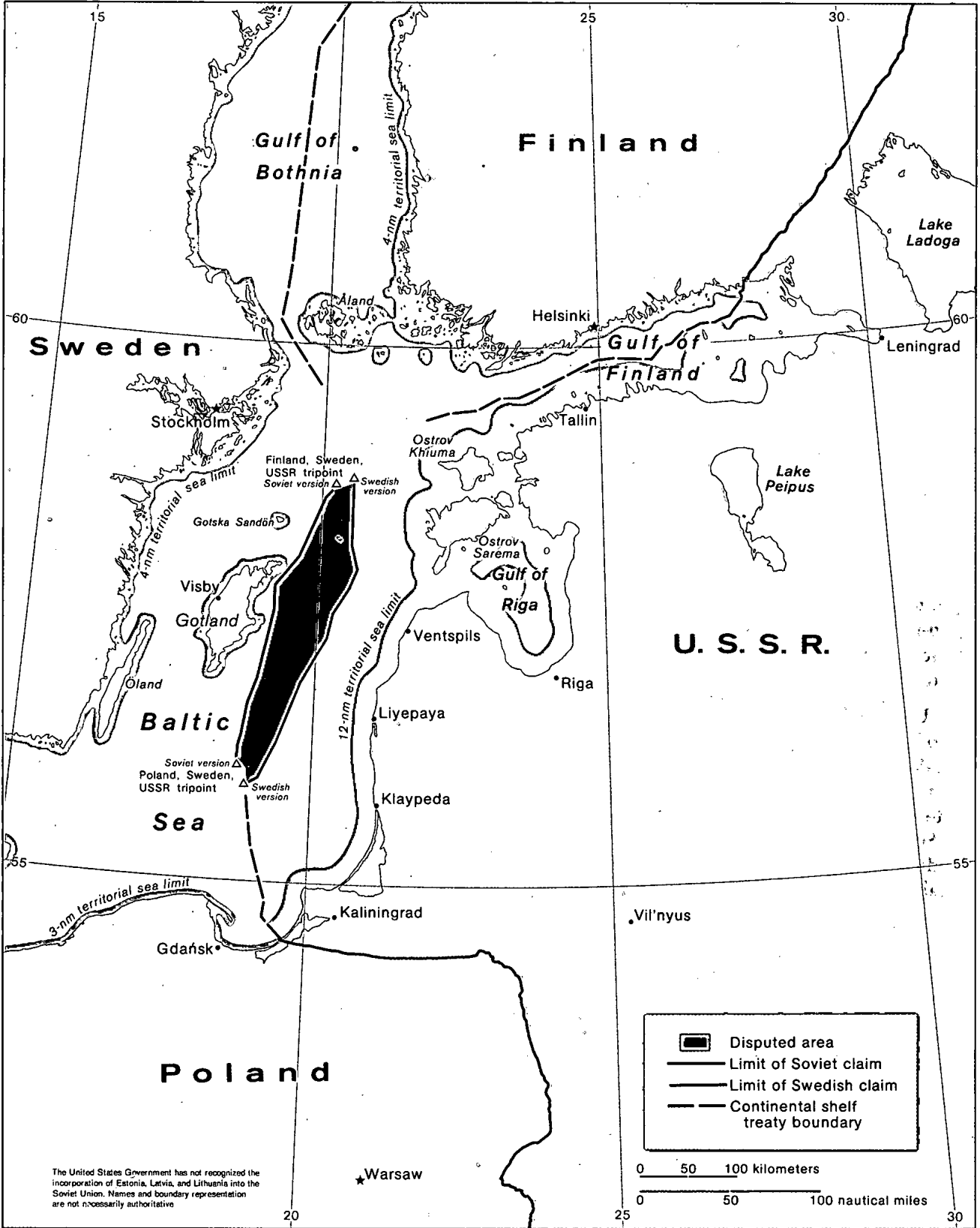
The existence of special circumstances or the lack thereof is what the disagreement on the boundary line in the Barents Sea is about. Moscow strongly maintains

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### Baltic Sea Continental Shelf Boundary Claims



The United States Government has not recognized the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. Names and boundary representation are not necessarily authoritative.

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Ukrainian and Rumanian delegates withdrew their motion just before it was to be voted upon. [redacted]

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Many international lawyers view the closed sea doctrine as little more than a manipulation of international legal theory in the interests of Soviet foreign and strategic policy. During the cold war period some Western writers described this doctrine as a potential legal rationalization for Soviet domination of its non-Communist neighbors. It is probably more accurate to assess the doctrine as a defensive response grounded in the naval weakness of the USSR at that time. [redacted]

25X1

*Sea of Japan—Sea of Okhotsk* [redacted]

There are few territorial constraints on Soviet Naval operations in the Pacific. Naval vessels based at Petropavlovsk on the Kamchatka Peninsula can reach their patrol stations on the high seas without transiting waters claimed by other states. Naval vessels departing Vladivostok, however, usually pass through Japanese waters to reach the Pacific. The most direct exit requires transit of Tsugaru Strait, separating the Japanese islands of Honshu and Hokkaido. Tokyo is extremely sensitive about the flight of Soviet aircraft over the strait and the passage of nuclear-propelled or nuclear-armed vessels through it, but the Japanese are likely eventually to acknowledge the international status of Tsugaru and accept a treaty regime of transit

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passage. If the Soviet Navy is prevented from using this strait, lengthy detours through either the Korea or LaPerouse Straits would be required. [redacted]

At the San Francisco Conference convened in September 1951 to draft a peace treaty with Japan, the USSR submitted a proposal for regulating the regime of the Sea of Japan. Since that time, Moscow has repeatedly expressed its willingness to reach agreement with other littoral states to exclude warships and military planes of nonlittoral states from both the Sea of Okhotsk and the Sea of Japan. Soviet writers have not been able to produce much in the way of historical precedent that would justify a closed status for either the Sea of Japan or the Sea of Okhotsk. None of the Soviet proposals has been accepted by other nations. [redacted]

There are indications in recent Soviet legal writings and in the USSR posture at the LOS Conference that the Soviets may be abandoning their closed sea doctrine. Since the theory was first enunciated, the Soviet Union has become a powerful naval and maritime state. Once parochial concerns have been transformed into global equities. Now the closed sea theory could represent a greater threat than advantage to Soviet maritime interests if other states used it to justify closing their waters to Soviet vessels. [redacted]

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there are special circumstances in the region that necessitate such an exception. The Soviet negotiators point to disparities of population and economic development between the adjoining land areas of the two states; they argue that the population of the Kola Peninsula is double that of north Norway, and since the region is of rising economic importance, the USSR should be entitled to a larger segment of the Barents Sea. Moscow has also pointed to the sector claim itself as a significant special circumstance, noting the use of the sector line as the sea boundary between Norway and the USSR in official Soviet maps and atlases since 1926. [ ]

Oslo disputes all of these points and believes it is on firm legal ground in claiming the median line as the boundary. Oslo notes, for examples, that there is no precedent in international law for delimiting a shelf area in accordance with the sector principle, adding that only one other state, Canada, has expressed support for it. [ ]

The trends in the LOS Conference generally favor the Soviet position: in the present draft text, the median-line principle has been consigned to a secondary position, in favor of the vague concept of equitable principles. The apparent weakening of the median-line principle is welcomed by the USSR and could account, in part at least, for the Soviet refusal to compromise. [ ]

The USSR wants to confine this jurisdictional dispute to bilateral talks with its smaller and weaker Norwegian neighbor. Although Oslo might be willing, Moscow is not likely to allow the issue to come before the International Court of Justice or the proposed Law of the Sea Tribunal, nor to submit to any other means of binding third-party arbitration. Where its crucial national interests are concerned, the USSR will not risk adverse judgments by third parties. [ ]

#### Baltic Sea [ ]

Since the early 1950s the Soviet Union has urged the non-Communist Baltic states to join the Socialist nations in an agreement to make the Baltic a "sea of peace" by excluding the warships of nonlittoral powers. (The Soviets regularly protest NATO naval exercises in the Baltic). The strongest initiative to establish a legal basis for a regional administration of the sea came in the "Moscow Declaration" of 23 October 1968, which was sponsored by the USSR, Poland, and East Germany. Its most controversial points state that no part of the continental shelf of the Baltic Sea "shall be turned over to the non-Baltic states, their citizens,

or firms for mineral prospecting, development, or other uses," and that "the continental shelf of the Baltic Sea must be used by all states exclusively for peaceful purposes." Sweden, Denmark, and West Germany have not acceded to the declaration. They view the Baltic as an open sea and insist that the warships of all nations have full rights to equal access. [ ]

The idea of furthering Baltic unity also has been expressed in Soviet proposals to cooperate in fishing and oceanographic research, to jointly explore the water resources of Northern Europe, and to coordinate methods of rescue at sea. [ ]

The major jurisdictional dispute in the Baltic centers on the effect the island of Gotland should have on the location of the continental shelf boundary. The Swedes propose a median line that would evenly bisect the Baltic except in the vicinity of Gotland; there, they claim, the boundary should be drawn halfway between that island and the coast of the USSR. The Soviets propose to ignore Gotland and place the shelf boundary midway between the mainlands of the two countries. Such boundary would fall very close to the eastern coast of Gotland. [ ]

#### Black Sea [ ]

The status of the Black Sea and the Turkish Straits has long been a shifting compromise among great powers competing for influence in the area. At present, the Montreux Convention of 1936 grants Turkey virtually full control of the Bosphorus and Dardanelles. A new oceans treaty will not change the situation in these passages since straits subject to treaties now in force will be exempt from changes in general international law. [ ]

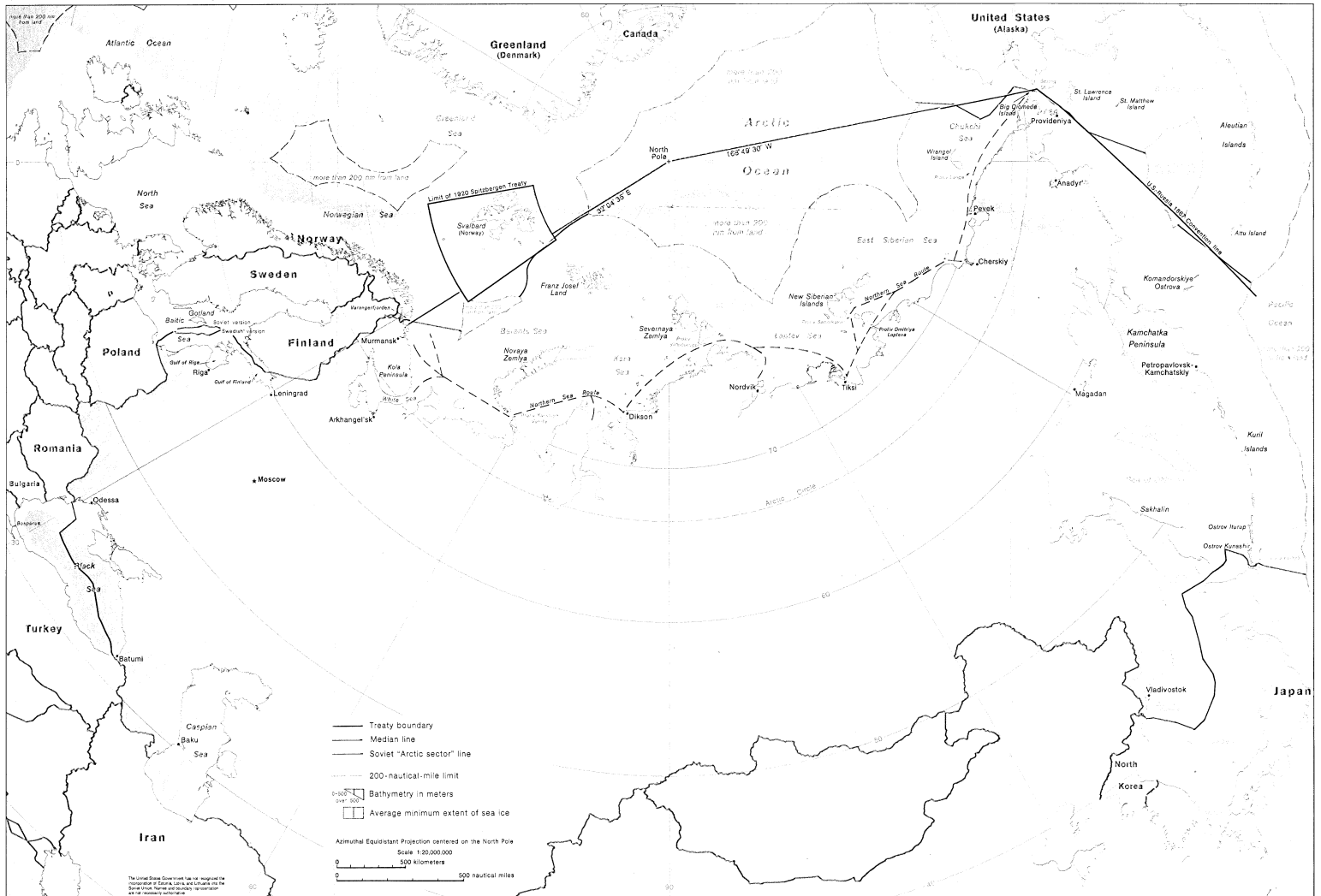
The Soviet Union has repeatedly asserted that the Black Sea should be a "closed sea." The USSR 1951 international law textbook referred to the Caspian, Black, and Baltic Seas as closed; regarding the latter two seas, it claimed that the littoral states enjoyed freedom of navigation and the right to engage in fishing and other maritime trades. Commercial navigation by vessels of non-littoral states "may be permitted" in the interests of international trade, however. [ ]

At the 1958 Geneva Conference on the Law of the Sea, representatives of the Ukrainian SSR and Rumania introduced the closed sea doctrine as an amendment (which clearly comprehended the Black Sea); rather than endure a formal recording of what would have been a lopsided vote against it, however, the

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