

The Arctic: Canada's legal claims

THIS PAPER EXAMINES THE EXTENT AND VALIDITY of Canada's land and water claims in the Arctic. In considering this issue, it is important to remember that international law uses different sets of principles to deal with territorial and marine claims. States may have sovereignty over land, but their authority over adjacent waters and seabeds is framed in terms of possession of rights and jurisdiction, the extent of which varies according to the type of zone involved. Accordingly, this paper will first examine the legal principles and claims dealing with the territorial dimension of the Canadian Arctic Archipelago before turning to Canada's claims over Arctic waters.

Canada's territorial claims

Sovereignty over the Arctic Archipelago.

Canada has exclusive sovereignty rights, authority and privileges in relation to the land masses of the Arctic Archipelago. Accordingly, it can apply and enforce its laws, regulate the conduct of activities, and exclude aliens and foreign nationals who would enter its territory without permission.

The legal basis for Canadian sovereignty over these islands rests predominantly on a mix of cession and occupation, to which considerations of self-determination could be added. More specifically, cession refers to grants of northern territory by the United Kingdom;¹ occupation involves Canada's activities on Arctic islands since cession took place and, in particular, on those islands over which multiple sovereignty claims overlap; and self-determination concerns the will of the inhabitants of the Arctic islands to be governed under Canadian institutions.

While the claim to territory by way of cession may be valid, an effective occupation claim by Canada is complicated by the fact that, given the challenges of this remote environment, human activity in the Arctic Archipelago has been limited. Nevertheless, Canadian territorial sovereignty enjoys enduring recognition and acquiescence from other

states, which makes Canada's claim extremely robust from a legal standpoint.² Accordingly, Canadian sovereignty over the Arctic islands is legally uncontroversial, and any concerns that Canada is not sufficiently present and active to fulfill the principle of occupation are unlikely to weaken its claim. Its claim would be undermined only if Canada were to abandon the territory completely, or if it were to tolerate the effective presence of another state in the Arctic islands as a competing sovereign.

Hans Island. The case of Hans Island is the exception to Canada's accepted sovereignty over the Arctic islands. Hans Island is situated in the centre of the Kennedy Channel of Nares Strait, between Canada's Ellesmere Island and Greenland, a territory of Denmark. Only 1.3 square kilometres in area, it is uninhabited. Canada and Denmark both claim the island as their own.

A 1973 agreement between Canada and Denmark on the delimitation of their respective continental shelves deliberately excludes Hans Island in the absence of a settlement over sovereignty.³ Since the mid-2000s Canada and Denmark have both re-asserted their sovereignty over the disputed island through on-site visits. In September 2005, the two countries issued a joint statement declaring that "we will continue our efforts to reach a long-term solution to the Hans Island dispute."⁴ But neither country has abandoned its claim, and the dispute remains unresolved.

The stakes in the dispute are relatively limited in geographical terms: they concern territorial sovereignty over the island itself and will have an impact on the size of the respective maritime zones for the region left open in the 1973 agreement. Some Canadian commentators, however, see the question of sovereignty over Hans Island as having broader implications for keeping intact Canada's claim over the Arctic islands, and thus strengthening its resistance against any challenges.

Canada's maritime claims

Title to Arctic territory comes with an important advantage, i.e., the capacity to claim, as a coastal state, rights in relation to the waters in which the islands sit. The nature and extent of those rights are provided, among others, in the 1982 *United Nations Convention on the Law of the Sea* (UNCLOS), the most important and authoritative maritime law treaty. Waters bordering on territory are divided into maritime zones, in which states are able to claim and exercise more or less extensive sets of rights.

Maritime zones are measured or determined from baselines that mark the end of a state's territory and the beginning of its maritime extension. Normally, baselines closely follow the coast at the low-tide line, but in cases where the coast is severely indented with numerous small bays, states can draw straight baselines to simplify the delineation. Waters on the landward side of the straight baselines are considered internal waters, although a right of passage sometimes exists in such circumstances. Canada's claim to Arctic maritime zones is based on the straight baseline method. A simplifying line is drawn around the Arctic Archipelago, and the maritime zones claimed are measured from that line onward.

Internal waters. According to Canada's application of the straight baseline method, waters within the baseline at the external edge of the Archipelago are Canadian internal waters – a claim that has been contested, as explained below, in relation to the Northwest Passage. Under international law, a state is fully sovereign over such waters⁵ and can therefore fully apply and enforce its laws over persons, goods and incidents therein. It can also exclude any foreigner or foreign ship from those waters.

The 12-mile territorial sea limit and the right of innocent passage. Seaward from the straight baseline is a 12-mile territorial zone surrounding the Arctic Archipelago. In that zone, Canada has the capacity to prevent the commission of an offence under its federal customs, fiscal, immigration or sanitary law and the capacity to enforce such law through power of arrest, search and seizure. Under international law, a state's sovereignty over its 12-mile territorial zone (including its waters, air space, seabed and subsoil) is subject to an important exception:

the right of innocent passage enjoyed by ships of all states, i.e., the right to transit through the waters toward the coast of the state or toward the high sea, without engaging in activities disruptive to peace and order. Importantly, commercial navigation usually qualifies as an appropriate exercise of the right of innocent passage; submarines may also pass through territorial waters, although they must surface to do so.

The 200-nautical-mile exclusive economic zone.

Pursuant to UNCLOS, Canada has a 200-nautical-mile (370 km) Exclusive Economic Zone (EEZ) around the Arctic Archipelago. Under UNCLOS and Canadian law, coastal state jurisdiction and sovereign rights in an EEZ are for the purpose of exploring and exploiting, conserving and managing the natural resources of the waters (including living and non-living resources), the seabed and its subsoil, and rights of economic exploitation of the zone (e.g., the mining of energy resources).

Canada's claims over the continental shelf.

Canada also claims rights in its continental shelf.⁶ Under the 1997 *Oceans Act* and in accordance with Article 76 of UNCLOS, the default length of Canada's continental shelf extends to 200 nautical miles from the straight baselines, but it is also possible to claim an extended continental shelf if scientific evidence can be provided that the shelf beyond the 200 miles is indeed a geological extension of the continent. Canada's pursuit of such a claim is further examined below. With respect to the continental shelf, coastal states enjoy sovereign rights of exploration and exploitation of mineral and other non-living natural resources of the seabed and subsoil and of living organisms belonging to sedentary species. However, unlike EEZ rights, the rights in the continental shelf do not include rights to fisheries and other living resources in the water column above the seabed.

Canada's environmental protection authority in the Arctic.

Canada asserts environmental protection powers in relation to its Arctic maritime zones through various Acts. The 1970 *Arctic Waters Pollution Prevention Act* establishes waste disposal as an offence, a corresponding regime of civil liability, regulatory powers related to shipping safety control zones and ship construction standards, and enforcement powers. The Act applies to the waters

between specific eastern and western lines and waters contiguous (up to 100 nautical miles) with land north of the 60th parallel. Moreover, environmental protection powers related to Canada's maritime zones in general are also applicable in Arctic waters. For instance, the *Fisheries Act* protects fish and fish habitat in Canada's territorial sea and internal waters, including Arctic waters. Similarly, parts of the 2001 *Canada Shipping Act* dealing with pollution prevention and response apply to Canadian Arctic waters or waters in Canada's EEZ. The 1994 *Migratory Birds Convention Act* has been extended to encompass Canada's EEZ, including in the Arctic, with enforcement powers against vessels that deposit substances harmful to migratory birds. Likewise, Canada has enforcement powers in relation to environmental offences in the EEZ, including in the Arctic, under the 1999 *Canadian Environmental Protection Act*.

Environmental protection powers of this type are now recognized under international law. Article 234 of UNCLOS, which is specifically applicable to "ice-covered areas," provides that coastal states have the right:

to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance.

Legal disputes over Canada's Arctic maritime claims

Although Canada's Arctic maritime claims are not contested for the most part by the international community, two related issues have been controversial and remain disputed: the status of the Northwest Passage, and the delimitation of the Beaufort Sea. In addition, claims over the continental shelf in the Arctic circumpolar region may prove to be an area of dispute between Canada and other states as they articulate the bases for their claims more precisely.

The Northwest Passage. The Northwest Passage is a maritime path comprising up to seven routes, of which two are the main ones, connecting the Davis

Strait and Baffin Bay in the east to the Bering Strait in the west. Canada considers that it is sovereign over the waters of the Northwest Passage on the ground that they are internal waters. It invokes two legal bases in support of its position: the waters are internal (1) by virtue of historic title, and/or (2) by virtue of their being on the landward side of straight baselines drawn around the entire Arctic Archipelago in 1985.⁷ To be clear, historic title enables a state to supersede purely geographical considerations in claiming sovereignty and to prevent the application of the rules and principles concerning the territorial sea, the EEZ or the high seas that would otherwise negatively affect its consideration of the maritime area in question as being entirely within its domestic jurisdiction. Three conditions must be present for historic title to exist: (1) exclusive exercise of state jurisdiction; (2) a long lapse of time; and (3) acquiescence by foreign states.⁸

Canada's claim to the Northwest Passage according to these two legal bases has been extensively analysed. For the most part, the historic title argument is considered to be weak.⁹ Instead, the straight baseline argument is thought to be better and strong enough in international law. With the Northwest Passage deemed part of Canadian internal waters, Canada would be able to regulate activities therein and to enforce its laws in the Passage, while foreign states and ships would enjoy no maritime rights under international law.

However, Canada's characterization of the Northwest Passage as Canadian internal waters is contested. The United States, the most vocal disputant, considers that the Passage qualifies as an international strait. Under international law, a strait must meet a geographical and a functional requirement to be considered international. The geographical requirement is that it must be a water corridor between adjacent land masses that links two bodies of the high seas or other waters. The functional requirement is that it be used as a route for international maritime traffic. If a strait meets these two requirements and is thus international in the legal sense, foreign states have navigation rights, or right of transit, through the strait – which means that they do not have to request permission to navigate through it.

Some observers consider the US argument to be weak, given that the Passage has seldom been used for international traffic. However, maritime traffic

through the Passage is predicted to increase as it becomes more accessible as a result of climate change and the melting of the Arctic sea-ice. Accordingly, some experts have raised the prospect that the Passage would eventually be internationalized, i.e., it would gradually become an international strait.¹⁰ If the international strait qualification were to prevail, Canada would not necessarily lose all rights and powers over the waters of the Passage, but those rights would be diluted insofar as Canada would be obliged to respect the navigational rights of other states.

Other experts have been raising the possibility of a third alternative, namely that the Northwest Passage be considered territorial waters subject to a right of passage. Accordingly, the Passage would not meet the requirements of an international strait, but neither would it be entirely enclosed within Canada's straight baselines. Hence, foreign states would enjoy the right of innocent passage through the Passage.

The dispute between Canada and the United States on the status of the Passage is ongoing. Although there has been no formal change to the US position, it has been suggested recently that the United States may come to regard the Canadian claim as more palatable politically and legally. According to such observations, concerns about ensuring continental security and the necessity of policing the Passage are more likely to be addressed by Canada's legal claim over the Northwest Passage than by the allowances of an international strait.

Maritime delimitation in the Beaufort Sea. The dispute in the Beaufort Sea concerns the maritime extension of the land boundary between Yukon and Alaska. The area is considered to be resource-rich. Canada claims that the maritime boundary runs along the 141st meridian as an extension of the territorial boundary agreed with the United States. However, the United States rejects this position, arguing that the boundary must be determined by using the equidistance principle – a recognized mode of maritime delimitation that traces a line at equal distance from the closest land point of each state. This produces a line that reflects more closely the direction of the respective coast lines. Canada and the United States are in effect both promoting the use of a delimitation method that will best serve their respective interests and that will produce, from each of their perspectives, the largest maritime zone possible. Resolution of this dispute is still pending.

Possible competing claims over extensions of the continental shelf. UNCLOS recognizes the right of coastal states to an EEZ up to 200 nautical miles seaward from the baselines. It also permits the formulation of claims extending beyond this distance, and its Article 76 and Annex II provide for a detailed regime to that end. The regime involves the determination of the outer limit of the continental shelf first by establishing the foot of the continental slope (FOS).¹¹ The process then allows the determination of two lines. The first one is the formula line, which is either (a) a distance of 60 nautical miles (111 km) from the FOS, or (b) the distance to a point where the thickness of the sedimentary layer of the seabed is at least 1% of the distance to the FOS (also known as the "sediment" formula). Concretely, the formula line is drawn on the basis of the most advantageous option for the claimant at any particular location. The second line, the constraining line, serves the purpose of limiting the distance established by the formula line, thus delineating the maximum length of the extended continental shelf. The constraining line is either (a) 350 nautical miles (648 km) from the baseline, or (b) 100 nautical miles (185 km) beyond the 2,500-metre isobath (a line demarcating where the depth of the water is 2,500 metres). The final outer limit of the continental shelf is constructed by choosing at each point the most landward line from the constraining and the formula lines. In constructing that line, the points cannot be further apart than 60 nautical miles.¹²

Under the UNCLOS regime, a state must submit information relevant to the outer limits of the continental shelf to the Commission on the Limits of the Continental Shelf (the Commission) within 10 years of its ratification of UNCLOS. As Canada ratified UNCLOS on 6 November 2003, it must submit its claim to the Commission on the Limits of the Continental Shelf by the end of 2013 in order to comply with the time frame prescribed by UNCLOS.¹³

The preparation of a Canadian submission

Canada recently began a multi-year mapping exercise that will enable it to trace with precision the contours of the extended continental shelf that it claims. The work focuses on the areas where Canada would have significant and valid claims, namely, over the Grand Banks and the Flemish Cap on the East Coast; in the

Arctic Ocean, west of the Canadian Arctic Archipelago in the Beaufort Sea; and, in the Eastern Arctic, over an area potentially encompassing the North Pole.¹⁴ The federal government estimated in September 2007 that its overall continental shelf beyond 200 miles covers 1.75 million square kilometres, most of it located in the Arctic.¹⁵ The *Oceans Act* already provides for the possibility of claiming an extended continental shelf, but it leaves its precise length to be determined by lines traced on the basis of specific geographical coordinates of points prescribed by regulation. No such coordinates of points have been adopted yet in relation to the Arctic waters, but the mapping exercise being conducted under UNCLOS should permit just that.

Funding for the exercise has been provided by successive governments. In Budget 2004, the Canadian government had announced that \$51 million over 10 years would be spent to conduct seabed mapping of the Arctic continental shelf. In September 2007 the government estimated that a total of \$69 million over 10 years would be invested for the Canadian UNCLOS Research Program. More recently, Budget 2008 provided \$20 million over two years for the mapping program in the Arctic, and in May 2008 the government announced \$20 million in funding for seabed mapping and related work to support Canada's submission on the outer limits of its continental shelf. It is not clear whether these amounts overlap, and what has been allocated or spent so far. Other funding initiatives related to the federal government's Northern Strategy and the Canadian Coast Guard Fleet Renewal could also bring support to its mapping program.¹⁶

Data collection in support of Canada's submission on the outer limits of its continental shelf relies on two types of surveys: seismic and bathymetric. The mapping exercise in the Arctic has proven difficult because of the remoteness of the area, unpredictable weather, and the presence of an ice cover for most of the year. It would appear that in the eastern Arctic the delineation of the continental shelf will be done mainly through a combination of the natural prolongation method (using the 2,500-metre isobath) and the FOS-plus-60-nautical-miles formula. According to the federal government, however, the "sediment" formula will be required in the western Arctic to maximize Canada's claim. Seismic surveys, the quality of which depends greatly on ice conditions, will therefore be required. Test seismic

surveys were conducted or are planned to be conducted in 2006, 2007, 2008 and 2009.¹⁷ Early results also suggest that the Alpha Ridge in the eastern Arctic is attached to the Canadian landmass and would qualify as an extension of the continental shelf.

Submissions by other countries and international cooperation

Only Russia and Norway have made submissions to the Commission about the extension of their continental shelves in the Arctic. In 2001, Russia submitted its claim, which notably included part of the Lomonosov Ridge and ended at the North Pole. The Commission recommended that the Russian Federation make a revised submission in view of the insufficient information provided and the lack of support for the findings contained in the recommendations. Canada reacted to the Russian submission and declared itself unable "to determine whether it agrees with the Russian Federation's Arctic continental shelf submission without the provision of further supporting data" – neither accepting nor rejecting the Russian claim. Russia has not abandoned its claim and intends to submit additional information to the Commission.¹⁸ The highly publicized 2007 Russian exploration of the North Pole, during which a Russian flag was deposited in a titanium capsule at the bottom of the Arctic ocean, appears to be part of Russia's efforts to reinforce its position with respect to the extension of the continental shelf, the UNCLOS ruling notwithstanding. Some observers have even interpreted Russia's actions as promoting the adoption of the "sector theory" – the division of the Arctic into sectors accorded to the Arctic rim states, with the North Pole as the reference point.¹⁹

On 27 November 2006, Norway submitted to the Commission its claim to an extended continental shelf in the Arctic. The Commission has yet to finalize its position on this claim, and Canada has not reacted to it.²⁰

Multiple and overlapping claims create the potential for disputes. For instance, if the Lomonosov Ridge is proven to link Siberia and Ellesmere Island, then Canada, Denmark and Russia might face a three-way delimitation problem. Canada and Denmark, both standing to benefit from a determination that the Lomonosov Ridge is a natural prolongation of the North American continent,

conducted a joint on-ice expedition north of Ellesmere Island in 2006. Collaborative exercises of this kind help to avert disputes at an early stage.²¹ Were they to occur, actual disputes arising from overlapping submissions would likely be resolved through discussions, negotiations and/or arbitration in accordance with international law.

Conclusion

Overall, Canada's Arctic land and maritime claims are fairly solid and well recognized, although some limited elements remain disputed. On the territorial front, Hans Island is the exception to Canada's unchallenged sovereign title to the entire Arctic Archipelago. Although Canadian claims over Arctic waters are also generally very strong, disputes about some of them are more significant both geographically and in terms of their implications for Canada. First, the maritime boundary delimitation in the Beaufort Sea, which remains to be settled, could maintain or restrain the maritime zones that Canada currently claims in that region, including claims over the resources found therein. Second, the extent to which Canada can secure its claim that the waters of the Northwest Passage are internal, as opposed to an international strait or part of its territorial sea, will be significant for Canada – not only in its relationship with the United States but also in relation to other states around the globe wishing to navigate through them. The characterization of the Northwest Passage could have an impact on the extent and conditions of maritime traffic therein, and consequently on resultant pollution and Canada's ability to prevent and manage it. Third, Canada and other Arctic nations are each working on submissions for a claim to an extended continental shelf over the next few years; this exercise carries with it the potential for international disputes as the division of the Arctic seabed for the purposes of resource exploitation and management is settled.

Canada's claims to Arctic sovereignty and rights permit it to respond to opportunities and challenges encountered in the region, including strategic defence issues related to potential incursions into the Canadian Arctic; protection of the environment and the Arctic ecosystems; the preservation of the way of life of Aboriginal peoples; the good governance of local communities; and the exploitation and management of the Arctic's renewable and non-

renewable resources. It is anticipated that such opportunities and challenges will be amplified and multiplied in years to come, notably under the impact of climate change; thus, Canada's claims over the Arctic are expected to emerge as a more important dimension of its foreign relations.

François Côté

Industry, Infrastructure and Resources Division

Robert Dufresne

International Affairs, Trade and Finance Division

24 October 2008

SOURCES

1. Two cession deeds are particularly relevant: the acquisition by Canada of "Rupert's Land and the North-Western Territory" from the Hudson's Bay Company in 1870; and the transfer to Canada by the United Kingdom of "all British possessions on the American continent not hitherto annexed to any colony" in 1880 by Order in Council and subsequently confirmed in the 1895 *Imperial Colonial Boundaries Act*. See Hugh M. Kindred and Phillip M. Saunders, eds., *International Law Chiefly as Interpreted and Applied in Canada*, 7th ed., Montgomery Publishing, Toronto, 2006, p. 455.
2. Kindred and Saunders (2006), p. 455.
3. Agreement between the Government of Canada and the Government of the Kingdom of Denmark relating to the delimitation of the continental shelf between Greenland and Canada, in force on 13 March 1974, Canada Treaty Series, CTS 1974/9. See Article 2, para. 4, and Annex 4.
4. Foreign Affairs and International Trade Canada [DFAIT], "Canada and Denmark Issue Statement on Hans Island," News release, 19 September 2005, http://w01.international.gc.ca/minpub/Publication.asp?publication_id=383048&Language=E.
5. UNCLOS, however, provides for one exception to this absolute sovereignty that may be relevant to the Canadian claims: when waters that were not considered internal become so considered pursuant to the use of the straight baseline method of delimitation of the territorial sea, then a right of innocent passage exists in such waters.
6. Paragraphs 1 and 3 of Article 76 to UNCLOS define *continental shelf* as follows:
 1. The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.
 3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

7. The most comprehensive recent discussion of that question can be found in Donat Pharand, "The Arctic Waters and the Northwest Passage: A Final Revisit," *Ocean Development and International Law*, Vol. 38, Issue 1 and 2, January 2007, pp. 3–69 (p. 7). See also Donat Pharand, *Canada's Arctic Waters in International Law*, Cambridge University Press, Cambridge (UK), 1988.
8. Pharand (2007).
9. See Pharand (2007). For reviews of the opinions of various experts on the weak value of the historic title, see Erik Franckx, *Maritime Claims in the Arctic: Canadian and Russian Perspectives*, Martinus Nijhoff Publishers, Dordrecht (Holland), 1993, p. 103; Suzanne Lalonde, "Increased Traffic through Canadian Arctic Waters: Canada's State of Readiness," *Revue judiciaire Thémis*, Vol. 38, No. 1, 2004, pp. 49–124 (pp. 77–8).
10. See Donald McRae, "Arctic Sovereignty? What is at Stake?" *Behind the Headlines*, Vol. 64, January 2007, pp. 1–23 (p. 16); Pharand (2007), pp. 44–59.
11. The FOS is defined as the point of maximum change in the gradient at the base of the continental slope. It must be established by meeting the requirements stated for the thickness of sedimentary rocks, by satisfying geomorphological requirements, and by meeting distance and depth criteria, or by any combination of these methods.
12. The procedure is prescribed under UNCLOS's Annex II and in guidelines found in two documents adopted by the Commission on the Limits of the Continental Shelf: a set of rules (*Modus Operandi*) and Scientific and Technical Guidelines. The Scientific and Technical Guidelines, which were published in 1999, outline the requirements of the data that need to be used in defining the outer limits of the continental shelf. It also specifies the accuracy of the data and provides interpretations of Article 76. These two documents are available at http://www.un.org/Depts/los/clcs_new/clcs_home.htm. See also DFAIT, *Canada's Extended Continental Shelf – Article 76*, http://geo.international.gc.ca/cip-pic/geo/article_76-en.aspx.
13. The Canadian government, however, considers that failure to meet the deadline would not result in a loss of sovereign rights over a continental shelf beyond 200 nautical miles. See DFAIT, *Canada's Extended Continental Shelf – Frequently Asked Questions*, <http://geo.international.gc.ca/cip-pic/geo/faqs-en.aspx>.
14. DFAIT, *Canada's Extended Continental Shelf – Defining Canada's Extended Continental Shelf*, http://geo.international.gc.ca/cip-pic/geo/defining_cs-en.aspx; and DFAIT, *Canada's Extended Continental Shelf – Canada's Program*, http://geo.international.gc.ca/cip-pic/geo/canada_program-en.aspx#arctic.
15. Indian and Northern Affairs Canada [INAC], "Backgrounder – Research Program to Determine the Full Extent of Canada's Continental Shelf," September 2007, <http://www.aicn-inac.gc.ca/nr/prs/s-d2007/2-2940-bk-eng.asp>. See also Sea Around Us Project, <http://www.seaaroundus.org>. By comparison, Canada's EEZ is 2.76 million square kilometres; together with territorial waters, there are 5.6 million square kilometres of ocean under Canadian jurisdiction. Note that the Canadian territorial waters include significant bodies of inland marine waters such as Hudson Bay, the Gulf of St. Lawrence, and the waters of the Arctic Archipelago, which Canada considers "internal waters."
16. INAC (2007); Natural Resources Canada, *Government of Canada Takes Important Steps to Advance Canada's Northern Strategy*, 14 May 2008, <http://www.nrcan.gc.ca/media/newcom/2008/200832-eng.php>. Canada, *Budget 2004*, <http://www.fin.gc.ca/budtoce/2004/budliste.htm>. Canada, *Budget 2008*, <http://www.budget.gc.ca/2008/plan/chap4a-eng.asp>. Note that Budget 2004 provided a total of \$70 million over 10 years for seabed mapping of Canada's Arctic and Atlantic continental shelves. The federal government's continental shelf mapping program is the joint responsibility of three departments: DFAIT, responsible for providing legal advice on UNCLOS and coordinating the preparation and presentation of the submission; Natural Resources Canada – Geological Survey of Canada, responsible for the seismic surveys; and Fisheries and Oceans Canada – Canadian Hydrographic Service, responsible for the bathymetric surveys.
17. DFAIT, *Canada's Extended Continental Shelf – Defining Canada's Extended Continental Shelf*; DFAIT, *Canada's Extended Continental Shelf – Canada's Program*.
18. United Nations, *Canada: Notification regarding the submission made by the Russian Federation to the Commission on the Limits of the Continental Shelf*, 26 February 2002, UN Doc. CLCS.01.2001.LOS/CAN, http://www.un.org/Depts/los/clcs_new/submissions_files/rus01/CLCS_01_2001_LOS_CANtext.pdf. United Nations, *Oceans and the Law of the Sea, Report of the Secretary General, Addendum*, 57th session, UN Doc. A/57/57/Add.1 (8 October 2002), para. 41; and United Nations, *Division for Ocean Affairs and the Law of the Sea, Commission on the Limits of the Continental Shelf, Report of the seventeenth Meeting of States Parties*, SPLOS/164, 16 July 2007, para. 77, http://www.un.org/Depts/los/meeting_states_parties/SPLOS_documents.htm.
19. Senate, Standing Senate Committee on Fisheries and Oceans, *Evidence*, 2nd Session, 39th Parliament, 13 March 2008 (Dr. Ron Huebert), http://www.parl.gc.ca/39/2/parlbus/commbus/senate/Com-e/fish-e/05ev-e.htm?Language=E&Parl=39&Ses=2&comm_id=7. In its simplest expression, the sector theory divides a region into "pie slice" sectors formed by the drawing of straight lines starting from a common point, the North Pole, and attributes each to a neighbouring state. Such a theory has never found a reception in customary law: see Pharand (1988), pp. 1–79.
20. Norway, *Continental Shelf Submission of Norway in respect of areas in the Arctic Ocean, the Barents Sea and the Norwegian Sea*, Executive Summary, 2006, http://www.un.org/Depts/los/clcs_new/submissions_files/nor06/nor_exec_sum.pdf; and United Nations, *Oceans and the Law of the Sea, Report of the Secretary General*, 62nd session UN Doc A/62/67/Add.1, 31 August 2007, paras. 48–51.
21. Senate, Standing Senate Committee on Fisheries and Oceans, *Evidence*, 2nd Session, 39th Parliament, 12 February 2008, (Mr. Alan H. Kessel, Legal Adviser, DFAIT), http://www.parl.gc.ca/39/2/parlbus/commbus/senate/Com-e/fish-e/02evb-e.htm?Language=E&Parl=39&Ses=2&comm_id=7.

Ce document est également publié en français.