

## Chapter 16

# America's Maritime Boundary With the Soviet Union\*

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**D**uring last year's Washington Summit meetings between President Bush and Soviet President Gorbachev, a historic agreement was signed by which, for the first time, the United States and the Soviet Union registered their mutual accord on a maritime boundary.<sup>1</sup>

This new agreement was signed on 1 June 1990 by Secretary of State Baker and Soviet Foreign Minister Shevardnadze, and both signatories have been fully applying its provisions since 15 June 1990.<sup>2</sup>

Accordingly, the two nations have now established a maritime boundary for all purposes. The new boundary extends from the North Pacific Ocean through the Bering Sea and Straits into the Chukchi Sea, and terminates in the Arctic Ocean after traversing a distance of some 1,800 nautical miles, making this the world's longest maritime border.<sup>3</sup>

The successful conclusion of negotiations between the two parties was roughly contemporaneous with the widening of contacts and cooperation between them in the region; examples of this are the recent agreement on cooperation in maritime search and rescue, the agreement establishing a Joint Regional Commission for the Bering Straits area, and the agreement concerning mutual visits by inhabitants of the Bering Straits region.<sup>4</sup> However, the maritime boundary agreement, unlike the others, was brought to fruition as the result of discussions between the neighboring governments that began almost ten years ago—during the difficult years of the Brezhnev era.

As every American schoolchild knows, Alaska was purchased by the United States from Czar Alexander II in 1867. "Seward's Folly," as the \$7,200,000 acquisition was once derisively known, has long since been recognized as a remarkable coup by the United States. What is not often remembered, however, is that the 1867 Convention of Cession itself contained no provisions relating to establishment of a boundary *per se*. Instead, that agreement explicitly provided only for the cession by Russia to the United States of all territory and dominion possessed by the Czar "on the continent of America and in the adjacent islands,"

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and specifically established geographical limits solely with respect to the territory ceded.<sup>5</sup>

Even though the western limit of Alaska as defined in the 1867 Convention was not clearly identified as a boundary line, at least one authoritative commentator so described it just after the turn of the century;<sup>6</sup> at a minimum, it certainly performed the pragmatic function of a line of allocation, a cartographic device used to simplify description of the territory conveyed: i.e., Russia ceded to the United States everything it had east of the line and nothing west of the line.<sup>7</sup> Since in 1867 the concept of dominion over adjacent continental shelf and seas beyond one marine league from the appurtenant coast was not recognized by international law, it is not surprising that no provision for a maritime boundary was made in the original Convention of Cession.

During the ensuing years, and especially in recent decades, the line of allocation came, perhaps inevitably, to be understood by many as the practical equivalent of a boundary, i.e., as a line of division for maritime jurisdiction as well as land territory. Indeed, by the time the negotiations leading to the recent agreement were underway, the U.S. had come to regard the 1867 Convention line as the maritime boundary, and with respect to fisheries matters sought Soviet agreement to this position.<sup>8</sup> Prior to the 1970s, the question of whether there existed a maritime boundary was principally of theoretical significance, since up to that time both the U.S. and U.S.S.R. had claimed only the customary three nautical mile territorial sea (with twelve nautical mile fishing jurisdiction from 1964), and the U.S.S.R. had claimed a territorial sea out to twelve nautical miles. But in that decade, following the lengthy negotiations which resulted in the 1982 United Nations Convention on the Law of the Sea, the world community recognized as a new principle of international law the concept of the Exclusive Economic Zone (EEZ). The Soviet Union initiated the regulation of a two hundred nautical mile fisheries zone in 1978 (and of its EEZ in 1976, pursuant to which it assumed the right to regulate fishing, marine scientific research, marine pollution, and certain other activities within its zone, which extends seaward as far as two hundred nautical miles beyond its territorial sea). The United States established a two hundred nautical mile fisheries management zone in 1977 (declaring its EEZ in 1983, and its own twelve nautical mile territorial sea in 1988). As a result of both nations having established these opposed fisheries regimes, it became evident that in a number of places the zone claimed by one side overlapped that claimed by the other. Consequently, the two governments agreed to discuss the exact location of the 1867 line. Thus, it was the immediate problem of fisheries enforcement that led in the late 1970s to the convening of negotiations which ultimately resulted in the 1990 Agreement on the Maritime Boundary.<sup>9</sup>

Early in these discussions it became apparent that the two sides had traditionally employed different cartographic techniques to depict the 1867 Convention line.

U.S. practice had been to use orthodromic lines, arcs of great circles (which best approximate the shortest distance between points on the surface of the earth). Orthodromic lines appear straight on a conic projection of the Earth. Conversely, Soviet practice had been to use the rhumb line, or loxodromic curve, which is a line of constant compass bearing that appears straight on a mercator projection. In addition to these technical differences, there was disagreement over the geographic location of one of the points described in the 1867 Convention that is a basis of reference for drawing the Convention line. These differences resulted in assertions by each side that a certain chord-shaped area in the Bering Sea covering some 18,000 square nautical miles of ocean was on *its* side of the Convention line.<sup>10</sup>

As a predictable result of these overlaps, the fisheries authorities of both governments became involved, attempting to enforce their respective regulatory regimes throughout the entirety of what they conceived to be their own EEZ—including overlap areas. Indeed, some portions of the Soviet EEZ extended across the 1867 line, although it had appeared in 1977 that both sides were intending to use that line as the outer limit of their respective fisheries enforcement jurisdiction, at least with regard to areas lying within two hundred nautical miles of both sides' coasts.<sup>11</sup>

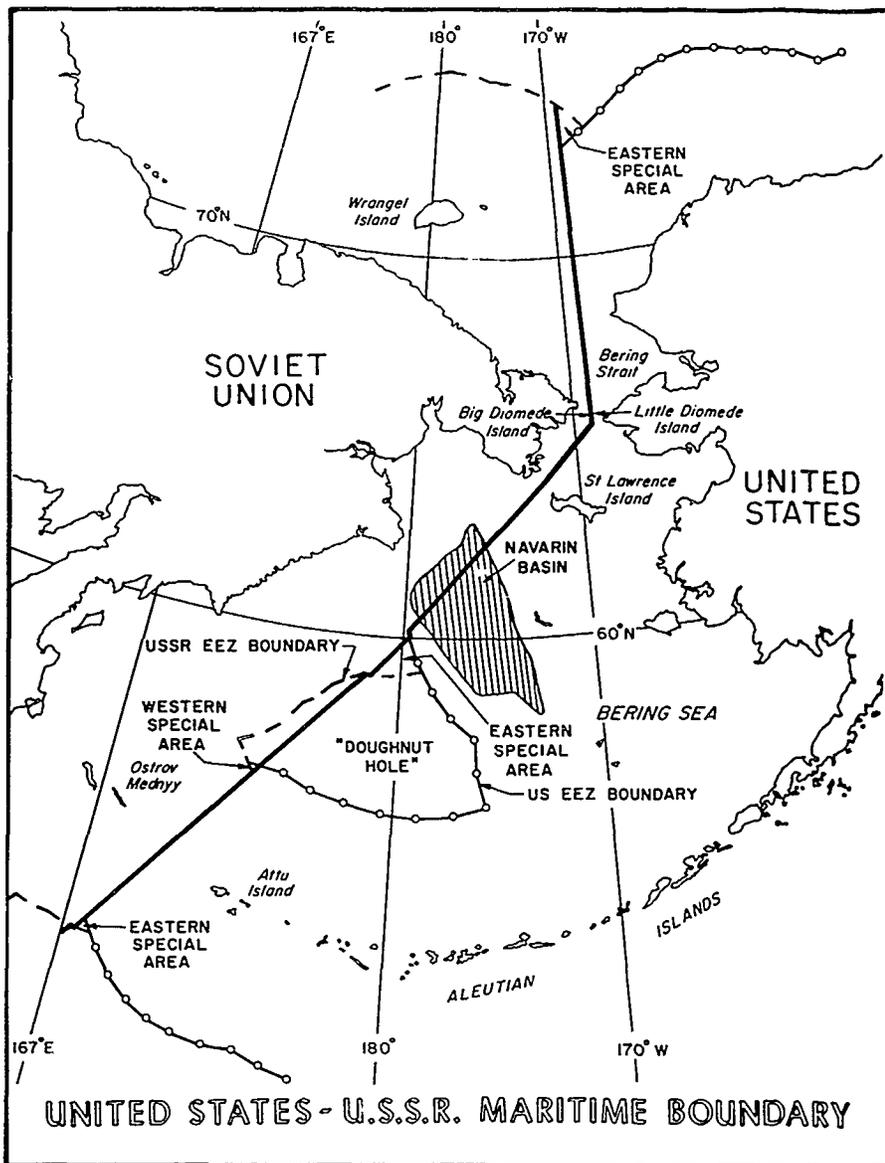
Tensions were inevitably created, an example of which is an incident in August 1986. At that time, two Soviet ships threatened and tried to stop the Seattle-based fishing boats *Katie K* and *Aleutian Mariner* in the Bering Sea, in an area of EEZ overlap some 160 miles west of St. Matthew Island. The two U.S.-flag vessels fled the area, which contains rich Tanner crab fishing grounds, leaving behind expensive gear including some 150 crab pots worth perhaps \$45,000; they were followed by the Soviet vessels for a reported one hour and forty minutes before the chase ended. In response, the 378-foot U.S. Coast Guard cutter *Midgett*—armed with two .50 caliber machine guns, a bow-mounted five-inch gun, and carrying an HH-52 helicopter—was assigned to reenter the disputed area and escort the *Katie K* and *Aleutian Mariner* back to collect their equipment, a task accomplished without further trouble.<sup>12</sup>

Several confrontations of this kind have occurred in recent years and threatened to become serious irritants in the relationship between the U.S. and U.S.S.R. Now, however, both sides have agreed on a fundamentally logical basis for fishing rights and responsibilities in the area. This represents a welcome advance, and reinforces the progress reflected in the recent Governing International Fishery Agreement signed by the two governments on 22 June 1988 and approved by Act of Congress later the same year.<sup>13</sup>

Separate issues are generated by the existence of an area of high seas in the central Bering Sea that is literally surrounded by the EEZs of the United States and Soviet Union but is included in neither, and is known as the "Doughnut Hole." This area, in the heart of the world's most productive fishing grounds,

contains vast but declining stocks of valuable bottomfish, especially pollock. The annual pollock yield of the Doughnut Hole, two million metric tons, is equal to that from U.S. Bering Sea EEZ waters in their entirety.<sup>14</sup> The degree to which coastal states may protect migratory species such as pollock from third-party fishing on the high seas—such as by Japan and Poland in the Doughnut Hole—is as yet unresolved as a matter of international law.<sup>15</sup>

Another important factor for both governments was the need to delimit clearly those areas of their respective continental shelves lying beyond two hundred



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nautical miles from the coasts of either of them. The continental shelf in the Bering sea is the largest such area on Earth, and in addition to being unusually rich in crab and shellfish is also believed to be a potentially important area for hydrocarbon exploitation.

One region of the Bering Sea continental shelf is of particular note and can serve to illustrate the complications for hydrocarbon exploration that have been generated by the boundary dispute: the Navarin Basin of the Bering Sea, a continental shelf zone roughly the size of Ohio. Lying some 250-300 miles off the Alaskan coast, it contains an EEZ overlap area roughly twenty-five miles wide and 225 miles long. This previously disputed zone lies on the western side of a 43,000 square-mile tract believed to contain significant oil and gas deposits. Water depths in the area range from 230 to 7,900 feet, although most of the shelf lies under less than six hundred feet of water.<sup>16</sup>

In March 1984, interest in the hydrocarbon potential of the basin was heightened by the discovery of a plume of natural gas spewing from the ocean floor almost in the middle of the then-disputed western portion of the tract.<sup>17</sup> Soviet interest in oil in the region remained considerable, as had been demonstrated in an unusual manner during the summer of 1983 when a Soviet TU-95 "Bear" aircraft buzzed a test well some seventy-five miles east of the U.S.-claimed line and comfortably within the U.S. EEZ.<sup>18</sup>

In 1984, the U.S. Department of the Interior requested bids for potentially lucrative oil leases in the Navarin Basin tract. The U.S. Geological Survey had identified three geologic structures in the sale area that might contain oil. Estimates of reserves in the twenty-eight million acre tract had indicated that the Navarin held 1.9 billion barrels of oil under waters less than two hundred meters in depth, and also 7.5 trillion cubic feet of natural gas in similar water depths<sup>19</sup>—substantial by "lower forty-eight" standards but still only a fraction of the Prudhoe Bay reserves on Alaska's North Slope. Because of the boundary dispute, the Interior Department placed in escrow the bids received for blocks of the tract lying in the disputed area, and no exploration was permitted to take place in that part of the Navarin. Finally, in December 1988, Interior returned some \$30 million in escrowed funds to Shell, ARCO, and AMOCO, at their request, because leases for the seventeen blocks in the disputed area for which bids were received had not been issued, due in part to continued uncertainty about the boundary.<sup>20</sup>

Now that a boundary settlement has been achieved, prospects have improved for U.S. and Soviet joint ventures in oil exploration and, later, exploitation in the Bering and Chukchi Seas. The Navarin Basin is again expected to become the focus of interest, although no commercial discoveries have as yet been made.<sup>21</sup>

Offshore drilling in the outer continental shelf off Alaska is not affected by the Bush Administration's decision in June 1990 to postpone offshore drilling in

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much of the rest of the U.S. continental shelf for up to ten years,<sup>22</sup> and as a result it appears inevitable that U.S. oil exploration will become increasingly active in the North. Yet, as noted above, the Bering Sea is one of the world's most productive fishing grounds, attracting commercial salmon, pollock, and crab fishermen. The fear of environmental damage from oil spills has created concerns in Alaska and elsewhere in the region that these resources could be seriously damaged. Indeed, the Interior Department's program for leasing oil and gas tracts off the Alaskan coast—including outer continental shelf areas of the Navarin Basin—was enjoined for a time by a federal court on the grounds that the sale of such leases could result in interference with native Alaskan hunting and fishing rights. However, the U.S. Supreme Court disagreed with lower federal courts and in 1987 removed these legal barriers to the sale of leases, deciding that state protection of such native rights did not apply to the outer continental shelf.<sup>23</sup>

The dramatic development of the international law of the sea during the post-World War II era has resulted in the establishment of national rights to EEZs and the continental shelf. The first clear assertion of the principle that the contiguous continental shelf belongs to the coastal State was made by President Truman's Proclamation of 28 September 1945.<sup>24</sup> This was followed by a number of similar claims on the part of many other nations. By 1958, the international community confirmed, in the Convention on the Continental Shelf, the concept that coastal states enjoy certain rights over their contiguous shelves.<sup>25</sup> By 1969, the International Court of Justice was able to describe these coastal State rights as "inherent," in its decision in the *North Sea Continental Shelf Cases*.<sup>26</sup>

The 1982 United Nations Convention on the Law of the Sea also indicates that the coastal state enjoys sovereign rights over all natural resources of its EEZ, including sea-bed resources.<sup>27</sup> However, the well-known fact that the United States is not a party to that agreement does not in any way create a difficulty for the U.S. in asserting rights to its contiguous continental shelf. This is because the "inherent" rights recognized by the International Court of Justice is part of customary international law and as such can be claimed by every nation without regard to the Law of the Sea Convention—which in any case is not yet in force since it has not yet attracted the number of ratifications required. A second basis for its shelf claim is available to the United States in that the EEZ is also understood by the U.S. to be a right recognized under customary international law. As such, it exists separately and apart from the Law of the Sea Convention in the same way that the U.S. views many other important provisions of that convention, such as those relating to navigational matters, the twelve-mile breadth of the territorial sea, and the right to exploit mineral resources of areas of the sea bed beyond the limits of national jurisdiction.<sup>28</sup>

As a result, the U.S. and the U.S.S.R. have now agreed, as between themselves, that neither will make any claim to the continental shelf in the area beyond its maritime boundary with the other; that is, each side's shelf will be

delimited by that boundary. Although the more usual practice in settling maritime boundaries of opposite States has been to agree upon the median line, i.e., a line equidistant from the nearest points of the opposing States' shores, this has not been a consistent international practice. For example, the 1974 Agreement between India and Sri Lanka on the Boundary in Historic Waters employed a modified median line to take into account "historical" factors. Equitable principles are always relevant, whether for territorial waters, EEZ, or continental shelf. However, the primary rule of international law is simply that delimitation should be made by agreement between the involved nations.<sup>29</sup> U.S. policy mirrors these considerations: delimitations should be accomplished by agreement in accordance with equitable principles.<sup>30</sup>

As we shall see, in the 1990 U.S.-U.S.S.R. Agreement the parties did not choose to draw an altogether new maritime boundary. Instead, they elected to confirm the basic and historic division set out in the 1867 Convention, and to employ that basic line (with some relatively slight geographic diversions) as their maritime boundary for all purposes, including delimitations between themselves of the continental shelf and EEZ.

Lurking in the background of the economic issues which arose from the overlapping claims in the Bering Sea, strategic questions have always been present. Certainly, access to the Bering Straits has for some time been an important strategic requirement for the navies of both the U.S. and U.S.S.R. Of course, the lack of an agreed maritime boundary in the area did not serve as a major disincentive to otherwise necessary operational activities (e.g., the U.S.-Allied PACEX '89 exercise in nearby North Pacific waters, the largest series of joint-combined exercises in the area since World War II),<sup>31</sup> if only because, beyond the territorial sea, delimitation has no effect upon navigational rights and freedoms. Nevertheless, it is clear that the confirmation of the location of the boundary has the effect of enhancing strategic stability between neighbors, and creating the conditions necessary to strengthen that relationship. As Robert Frost has well noted, "good fences make good neighbors."

The U.S.S.R. had some additional reasons why it wanted to resolve the boundary question. The Soviets were reportedly quite concerned about establishing negative precedents which might affect the outcome of similar negotiations with the Norwegian government involving a disputed portion of the Barents Sea, which controls routes to some of the most important and largest naval bases in the Soviet Union.<sup>32</sup> The Kola and White Sea coasts are currently the best basing areas for Soviet SSBNs, and the adjacent Arctic waters constitute the optimal operational concealment and launching stations for these strategic forces. Thus a majority of Soviet SSBNs, some sixty percent of the total force, are based here.<sup>33</sup>

Intimately related to this capability is the reality that among the most important Soviet naval objectives in any future world conflict would be the seizure of lines

of communication linking the Arctic Basin with the North Pacific. Such control would enable Soviet Northern Fleet and Pacific Fleet submarines to reinforce each other without interference along interior lines of operation.<sup>34</sup> Soviet naval literature, such as the influential *Morskoy sbornik*, emphasizes the key importance of controlling access to chokepoints such as the Bering Straits.<sup>35</sup> Soviet capabilities to project naval forces through this region are undoubted.<sup>36</sup> Moreover, modern Soviet SSBNs no longer need to run the gauntlet of U.S. or NATO antisubmarine warfare barriers, since those in the Northern and Pacific Fleets have long-range SLBMs which permit them to patrol in bastions close to the Soviet northern coasts.

Arctic bastions, of course, offer the additional protection of shallow waters, reducing the advantage enjoyed by U.S. SSNs, as well as of partial ice cover, which limits antisubmarine warfare operations by aircraft or surface vessels.<sup>37</sup> The ice pack also provides some protection from sea surveillance, and its ambient noise and currents interfere with detection by underwater electronics (sonar), acoustics (sound), and magnetic anomalies. The *Typhoon* class SSBN was designed specifically for operation in ice-covered waters.<sup>38</sup> This capability is now challengeable by the newer-production *Los Angeles*-class attack submarines starting with the USS *Chicago* (SSN-721), commissioned in 1986 and fitted with bow-mounted retractable diving planes and other features for under-ice operations.<sup>39</sup>

The new boundary agreement confirms that the U.S. has succeeded in maintaining uneroded access to the Bering Straits and preserving its freedoms to operate in the Bering and Chukchi Seas, as well as in the North Pacific and Arctic Oceans. This reinforces standing U.S. Arctic policy, which lists as a primary requirement the protection of essential U.S. security interests in the Arctic region.<sup>40</sup> Indeed, the Arctic Research and Policy Act of 1984 makes clear that, in the view of Congress, "as the Nation's only common border with the Soviet Union, the Arctic is critical to national defense."<sup>41</sup> In conformity with this principle, the U.S. was mindful that no precedent be set in the negotiations that would support the unilateral claims advanced by Soviet theorists to a "sector" of the Arctic stretching from their northern coasts to the pole itself. Although it is unclear whether the Soviet Union has ever officially embraced this theory,<sup>42</sup> the U.S. has consistently taken care to oppose all such claims, including those made by allies such as Canada. It need hardly be emphasized that high seas freedoms to operate on, over, and under the ocean areas of the Arctic are of paramount importance to the U.S. strategic posture, whether for deployment of SSBNs or for overflight by B-52s and other U.S. strategic forces.

What does the new agreement specifically provide? First, it makes clear that the new boundary will generally follow the course of the 1867 line of division, pursuant to the desire of the parties to "split-the-difference" between their competing projections of the 1867 line in the Bering Sea and the consequent

overlaps of EEZ areas.<sup>43</sup> Adoption of such an equitable and pragmatic approach led to results that have been welcomed by observers such as the chairman of the American Section of the International North Pacific Fisheries Commission, Mr. Clement Tillion, who observed, "neither side can say they beat anybody out of anything. It's a very nice agreement."<sup>44</sup>

The new agreement defines the limits within which each signatory may exercise territorial sea or EEZ jurisdiction in those areas where its claimed twelve nautical mile territorial seas or two hundred nautical mile EEZ would otherwise overlap the other's or remain in dispute. It also delimits, as between the parties, the continental shelf jurisdiction beyond two hundred nautical miles from their respective coasts that they may exercise in accordance with international law, in the Arctic Ocean, Bering, and Chukchi Seas, and a portion of the North Pacific Ocean.<sup>45</sup>

As President Bush stated in his letter transmitting the new agreement to the Senate for its advice and consent to ratification: "I believe the agreement to be fully in the United States interest. It reflects the view of the United States that the maritime boundary should follow the 1867 Convention line."<sup>46</sup>

Indeed, this is made clear in Article 1 of the agreement. Article 1 also contains the explicit statement that each party is to respect the boundary as limiting its coastal state jurisdiction. This means of course that neither side will attempt to manage offshore resources in areas on the opposite side of the boundary.

Article 2 of the agreement contains the legal description of the boundary. It is essentially the same as the line of allocation set forth in the 1867 Convention. Thus, the boundary proceeds from the point in the Bering Strait midway between Big (U.S.S.R.) and Little (U.S.) Diomed Islands due north as far as permitted under international law—for example, the U.S. EEZ terminates in the Arctic Ocean at about seventy-four degrees north latitude, close to the southern edge of permanent pack ice. (U.S. continental shelf jurisdiction may extend further north: see map.) South of the Bering Strait, the boundary extends generally southwestward to 167 degrees east longitude, terminating southwest of the Aleutian Island chain at a point lying slightly over two hundred nautical miles from both Soviet and U.S. territory.

Article 3 is a novel provision, and the first example known of the technique employed: the transfer by each party to the other of the right to exercise EEZ-derived sovereign rights and jurisdiction (which only the transferor would otherwise have been entitled to exercise) in "Special Areas" established by the agreement. Why was this done?—to avoid enlarging the high seas area of the "Doughnut Hole." This would have been the outcome had the parties failed to take into account those cases in which either of them had (or could have) asserted EEZ-derived rights across the 1867 line in locations where there were no overlaps with the EEZ of the other party. The result would have been the cutting off or

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prevention of EEZ claims in these areas, thus placing the fisheries resources therein outside the jurisdiction of both parties.

The map shows that of the Special Areas created, several, designated "Eastern," involve Soviet-origin areas and one, designated "Western," involves an area of U.S. origin. It is clear that the transfer of such rights and jurisdiction is complete for the duration of the agreement. Moreover, in effecting such transfer, neither side is ceding any part of its EEZ to the other, nor is either side extending its own EEZ. To emphasize the non-EEZ nature of the Special Areas, each administering party will be obliged to ensure that its laws, legislation, and charts distinguish such areas from its EEZ.

Of final note, Article 6 calls for any dispute over interpretation of the agreement to be resolved by negotiation or other peaceful means agreed between the parties. This represents a step forward in terms of the willingness of the two nations to contemplate various means of dispute settlement. In most modern U.S.-Soviet agreements—for example, those in the sphere of arms control—disputes have been confined to bilateral diplomatic channels, usually within a consultative body established for the specific purpose. The mutual willingness shown in the boundary agreement to give consideration to the full range of mechanisms available to deal effectively with disputes (including, at least in theory, both arbitration and judicial settlement) is a positive development.

What happens next? To complete the process, each side must ratify the agreement through its own constitutional requirements. For the U.S., this will involve the advice and consent of the Senate;<sup>47</sup> for the U.S.S.R., the Supreme Soviet must signify its assent. During the interim, however, the agreement will remain in force provisionally, perhaps for many years, pursuant to the Baker-Shevardnadze Exchange of Notes. Meanwhile, the world's longest maritime boundary can be expected to gain recognition as powerful, practical evidence of the strengthened stability that results from the positive application of international law by the U.S. and U.S.S.R. to the solution of mutual problems.

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Mr. McNeill held the Charles H. Stockton Chair of International Law at the Naval War College during the 1990-91 academic year when this article was first published.

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### Notes

1. Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990. U.S. Senate, 101st Cong., 2d Sess., Treaty Doc. 101-22. Reproduced in I.L.M. 942-945 (July 1990), (hereinafter cited as Treaty Doc. 101-22).

2. Exchange of Notes between Soviet Foreign Minister Shevardnadze and Secretary of State Baker dated June 1, 1990 (unpublished). The agreement has been submitted for advice and consent of the Senate to its ratification (but see also note 47, below). The Exchange of Notes establishing interim application is consistent U.S. practice, e.g., with regard to the maritime boundary agreements with Cuba, signed 16 December (and subsequent Exchange of Notes, 26 December 1989), and also with Mexico, signed 4 May 1978.

3. See map.

4. Agreement Between the United States of America and the Union of Soviet Republics Concerning the Bering Straits Regional Commission, signed at Jackson Hole, Wyoming, September 23, 1989, I.L.M. 1429-1433 (November 1989). Agreement between the United States of America and the Union of Soviet Socialist Republics concerning Mutual Visits by Inhabitants of the Bering Straits Region, signed at Jackson Hole, Wyoming, September 23, 1989, I.L.M. 1424-1428 (November 1989). Agreement Between the United States of America and the Union of Soviet Socialist Republics Concerning Maritime Search and Rescue, signed at Moscow, U.S.S.R., May 31, 1988 (unpublished).

5. Article II states: "The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern of Ignalook, and the Island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two degrees west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper island of the Kormandorski couplet or group in the North Pacific ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian." Convention Between the United States of America and His Majesty the Emperor of all the Russias Concerning the Cession of Alaska, signed at Washington, March 20, 1867. 11 BEVANS, TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES OF AMERICA 1776-1949 1216-1219 (1984).

6. 1 MOORE, A DIGEST OF INTERNATIONAL LAW 475 (1906).

7. The Alaska cession treaty is a classic example of this technique: *Delimitation of Seaward Areas Under National Jurisdiction*, Am J. Int'l L. 240 n.2 (April 1951).

8. Secretary of State Baker's Letter of Submittal, Treaty Doc. 101-22, at v. For further background on this point, see Antinori, *The Bering Sea: A Maritime Delimitation Dispute between the United States and the Soviet Union*, 1 Ocean Dev. & Int'l L. 24-26 (1987).

9. Treaty Doc. 101-22, at 5.

10. *Id.* at vi.

11. Smith, *The Maritime Boundaries of the United States*, *The Geographic Review* 405 (October 1981).

12. Associated Press, 9 August 1986; United Press International, 10 August 1986; Alaska Bear, (July-September 1986) (published by the USCG Seventeenth District).

13. Submitted to Congress pursuant to the requirements of the Magnuson Fishery Conservation and Management Act, Public Law 94-265, Title II, sec. 203; the agreement was approved by sec. 1 of Public Law 100-629, 7 November 1988. The agreement provides opportunities for fishermen from each country to conduct fisheries activities on a reciprocal basis in the other country's waters: see President Reagan's Message to Congress transmitting the U.S.-Soviet Fishery Agreement, *Weekly Compilation of Presidential Documents*, 846 (22 June 1988).

14. Holmes, *Ship to Shore*, *Alaska Business Monthly* 54 (March 1990).

15. See U.S. House of Representatives, Committee on Foreign Affairs, Subcommittees on Human Rights and International Organizations and on International Economic Policy and Trade, 100th Cong., 2d Sess., *Hearing on Oversight of the U.S. and U.S.S.R. Fisheries Agreement*, 29 June 1988, pp. 1-2. See also Miles & Burke, *Pressures on the United Nations Convention on the Law of the Sea of 1982 Arising from New Fisheries Conflicts: The Problem of Straddling Stocks*, 4 Ocean Dev. & Int'l L. 343-357 (1989). The U.S. Government reportedly rejected a call for unilateral extension of jurisdiction beyond two hundred nautical miles to permit management of such stocks (Miles & Burke at 349).

16. *MMS issues draft EIS for Navarin Area*, *Oil & Gas Journal* 27 (18 June 1990).

17. MacLeod, *Oil lease offering in U.S.-Soviet disputed waters*, *United Press International* (16 April 1984).

18. *Id.*

19. PRESCOTT, THE MARITIME POLITICAL BOUNDARIES OF THE WORLD 250 (1985). The current estimate of the Minerals Mining Service, Department of the Interior, has been revised downward, indicating that the basin's resource potential is about 1.1 billion barrels. (Letter from Mr. George Carpenter, MMS, to the author, 5 June 1991.)

20. *Oil & Gas Journal* 4 (16 July 1990).

21. Anderson, "No ordinary voyage—U.S., Soviet scientists working on pact to explore Arctic seas for new oil deposits," *Seattle Times*, (1 July 1990), p. E1. Interest persists despite the fact that during winter most of the Bering Sea shelf is ice-covered. Sharma, *Geological Oceanography of the Bering Shelf*, in HERMAN, MARINE GEOLOGY AND OCEANOGRAPHY OF THE ARCTIC SEAS 141 (1974).

22. *Oil & Gas Journal* 26 (2 July 1990).

23. *Amoco Production Co., et al v. Village of Gambell, et al.*, 480 U.S. 531; 107 S. Ct. 1396; 94 L. Ed. 2d 542 (1987).

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24. Proclamation No. 2667, *Policy of the United States With Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf*, Code of Federal Regulations, Title 3, 67-68 (1943-48 Compilation).
25. 15 U.S.T. 471; T.I.A.S. 5578; 499 U.N.T.S. 311.
26. International Court of Justice, *Reports 1969*, p. 23, (Judgment of 20 February 1969; *Fed. Rep. of Germany v. Denmark*, *Fed. Rep. of Germany v. Netherlands*).
27. 1982 LOS Convention Art. 56.1(a). See also CHURCHILL & LOWE, *THE LAW OF THE SEA* 137-140 (1988).
28. See Proclamation 5928 of 27 December 1988, *Territorial Sea of the United States of America*, 54 Fed. Reg. 777, (9 January 1989).
29. CHURCHILL & LOWE, *supra* n. 27 at 154-158.
30. Smith, *supra* n. 11 at 410.
31. Horiguchi, *Big US Show of Strength*, Pacific Defense Reporter 43 (February 1990); Air Force Magazine 81 (May 1990).
32. The Severodvinsk shipyard currently builds the DELTA-IV SSBN and OSCAR-II SSGN nuclear-powered submarines. U.S. Nav. Inst. Proc. 126 (January 1991).
33. Ries, "Soviet Military Strategy and Northern Waters," in ARCHER, *THE SOVIET UNION AND NORTHERN WATERS* 91 (1988). The Northern Fleet headquarters at Severomorsk is currently thought to be responsible for some sixty-four SSBNs and SSGNs and perhaps eighty more general-purpose submarines. (International Institute for Strategic Studies 39 *The Military Balance 1990-1991* (1990).
34. Petersen, *Soviet Military Objectives in the Arctic Theater*, Naval War College Review 3 (Autumn 1987).
35. *Id.* at 8, quoting Morozov & Krivinskiy, *The Role of Straits in the Modern War*, Morskoy sbornik [Naval Digest] (August 1982).
36. See, e.g., Egan & Orr, *Sea Control in the Arctic: A Soviet Perspective*, 76 Naval War College Review (Winter 1988).
37. Lindsey, *Arctic Perspectives From Different NATO Viewpoints*, NATO's Sixteen Nations, 54 (November 1988).
38. Larson, *United States Interests in the Arctic Region*, 2 Ocean Dev. & Int'l L. 170, 190.
39. Atkeson, *Fighting Subs Under the Ice*, U.S. Naval Institute Proceedings 83 (September 1987); SHARPE, *JANE'S FIGHTING SHIPS, 1990-91*, 724 (1991).
40. *Report of the Interagency Arctic Policy Group*, Dept. of State Bulletin 89 (July 1983).
41. Public Law 98-373, sec. 102(a)(2).
42. BUTLER, *NORTHEAST ARCTIC PASSAGE* 71-75 (1978).
43. Treaty Doc. 101-22, p. vi.
44. Nelson, *Maritime Boundary*, Associated Press Dispatch, 19 June 1990.
45. Treaty Doc. 101-22, at v.
46. *Id.* at iii.
47. Hearings were scheduled to be held before the Committee on Foreign Relations, U.S. Senate, on 13 June 1991, as this article went to press.