

Legal Interpretation of Submarine Ridges & Submarine Elevations

Article 76, paragraph 6

New Knowledge and Changing Circumstances in the Law of the Sea

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Kevin Baumert
U.S. Department of State
U.S. ECS Project
baumertka@state.gov

U.S.
Extended Continental Shelf
Project

The views expressed are the author's own, and not necessarily those of the U.S. government

Treaty Interpretation



- Vienna Convention on the Law of Treaties (VCLT)
- General rule of interpretation (Art. 31)
 - a treaty is to be interpreted “in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”
 - any “special meaning” for a treaty provision is to be given “if it is established that the parties so intended.”
- Supplementary means of interpretation (Art. 32)
 - Use of “preparatory work of the treaty,” including its negotiating history

Article 76 – context

- Article 76(4) presents two formulas for determining “outer edge of continental margin”
- Article 76(5) describes two “constraints,” beyond which the formulas in Article 76(4) may not extend:
 - Distance: 350 M constraint *or*
 - Depth: 100 M from the 2500 meter isobathGeneral rule: “either” constraint may be used
- Article 76(6) addresses constraints for “submarine ridges” and “submarine elevations”

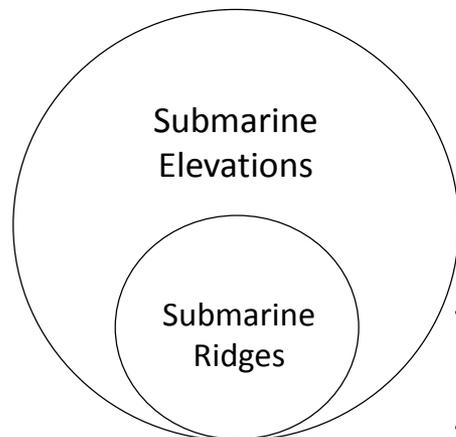
Article 76(6) – the text

Sentence 1. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

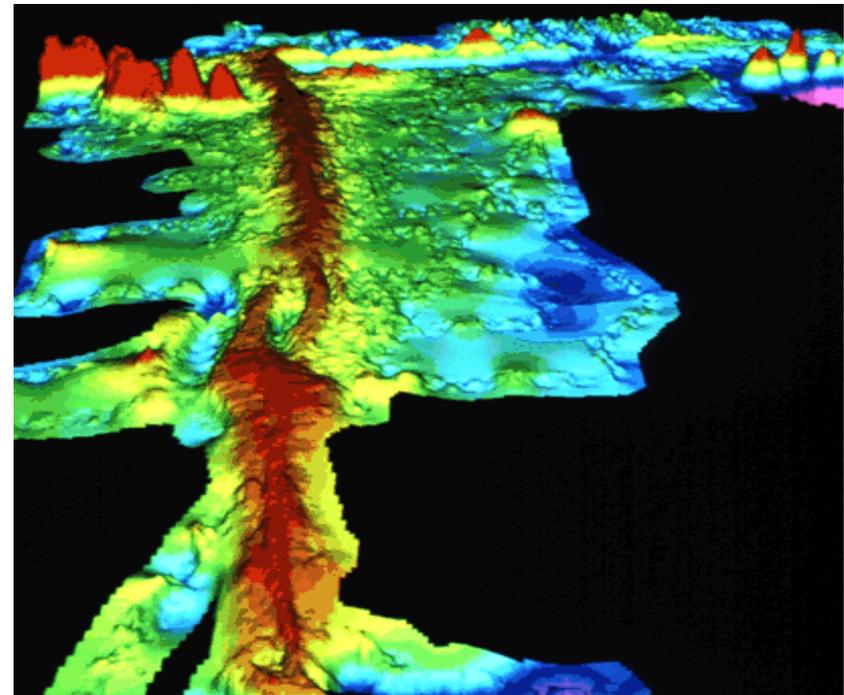
Sentence 2. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

Key questions for legal interpretation:

- *What are the ordinary meanings?*
- *What is the context?*
- *What does the negotiating history tell us?*



*Submarine Ridges
are a subset of
Submarine Elevations*



Submarine Ridge

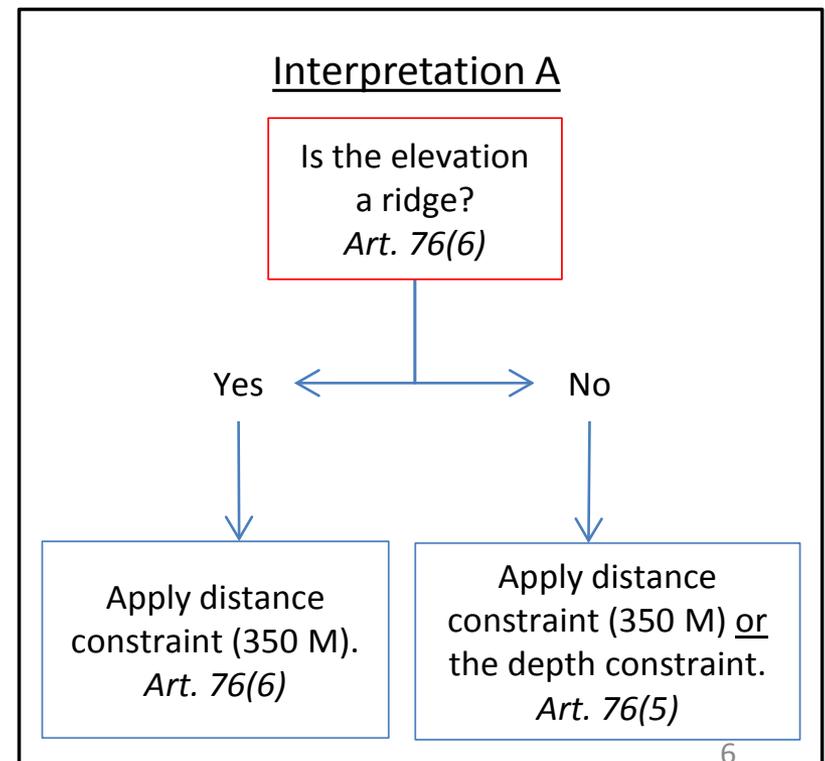
Article 76(6) – Interpretation A

Sentence 1. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Sentence 2. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

Interpretation A

- **Sentence 2 clarifies sentence 1**
- Ensures that Article 76(6) is **only** applied to “submarine ridges”
- The key is to determine whether a feature is a “submarine ridge”, i.e., a long, narrow, steep-sided submarine elevation.



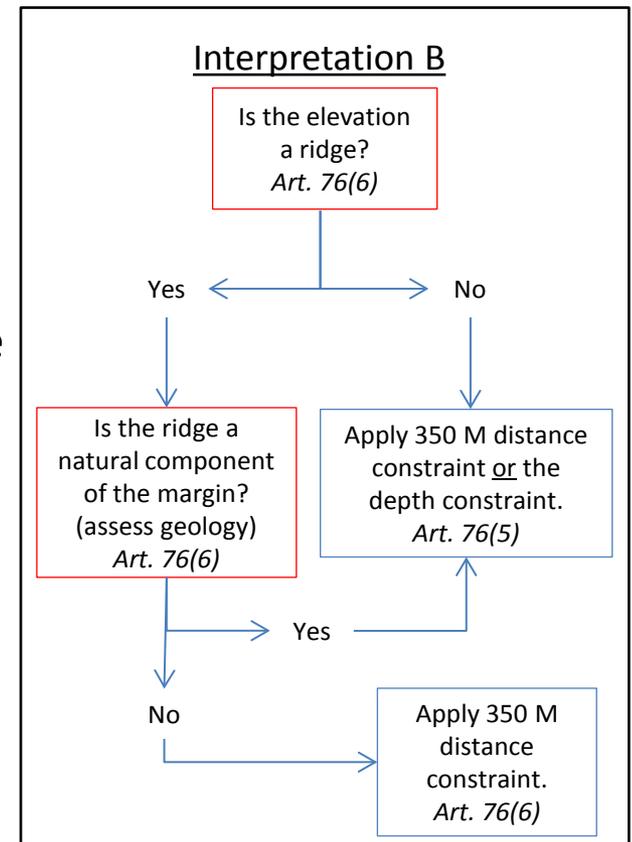
Article 76(6) – Interpretation B

Sentence 1. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Sentence 2. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

Interpretation B

- **Sentence 2 is an exception to sentence 1** (exception to an exception).
- Effect of Sentence 1 is reduced; some submarine ridges (i.e., those that are natural components) are not limited to 350 M.
- Here “natural component” has a special meaning, namely a geologic meaning.



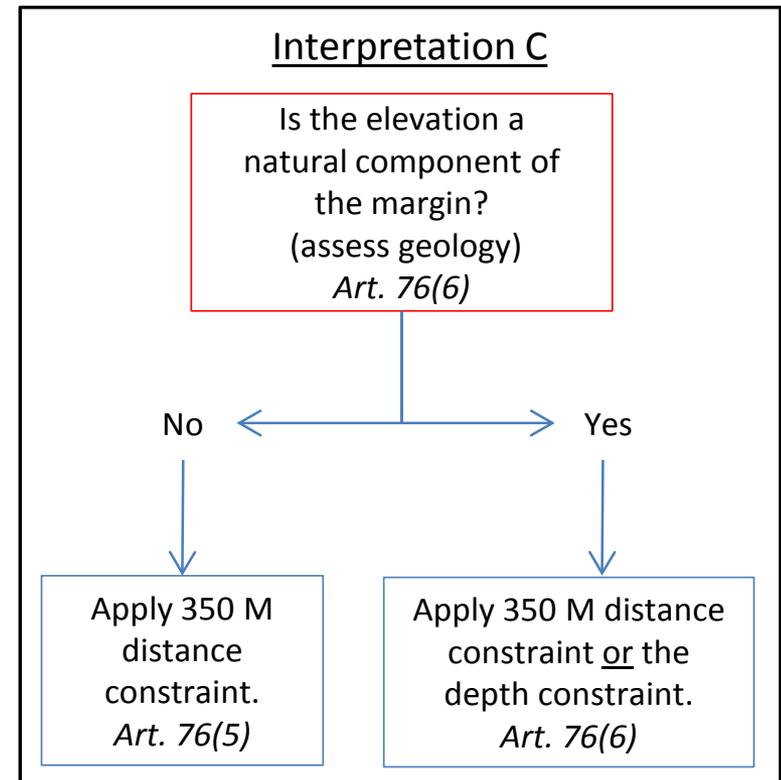
Article 76(6) – Interpretation C

Sentence 1. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Sentence 2. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

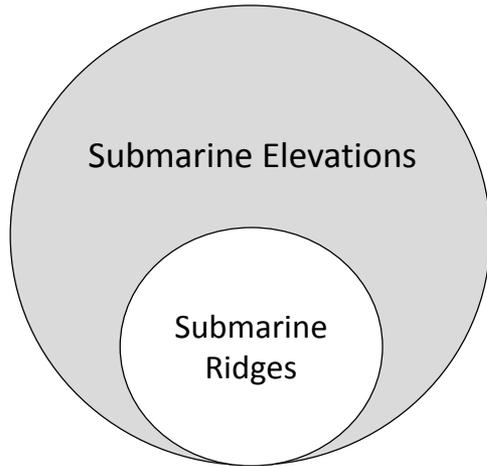
Interpretation C

- Common practice of CLCS (and coastal States)
- **No role for “submarine ridges”**
- Test is whether a feature is a “natural component of the continental margin,” in the geologic sense.

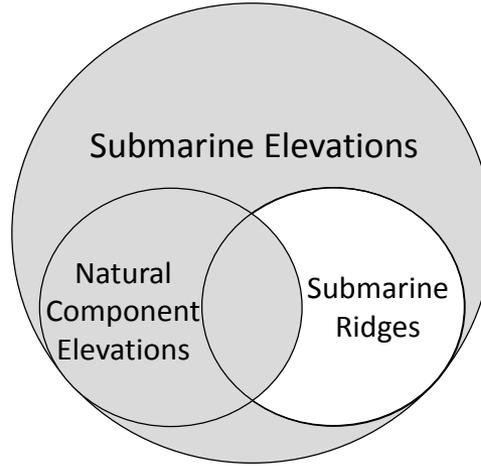


When can the Depth Constraint be used?

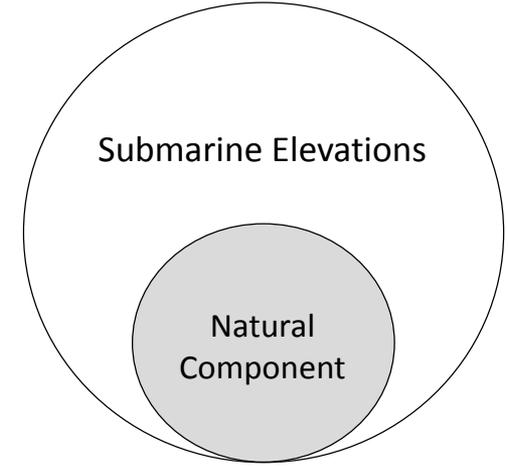
Interpretation A



Interpretation B



Interpretation C



May apply distance or depth constraint



May only apply distance constraint (350 M)

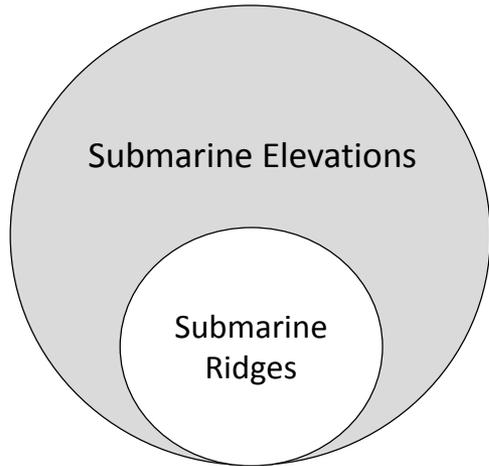
Interpretation A: Any non-submarine ridge

Interpretation B: Any non-submarine ridge OR any natural component

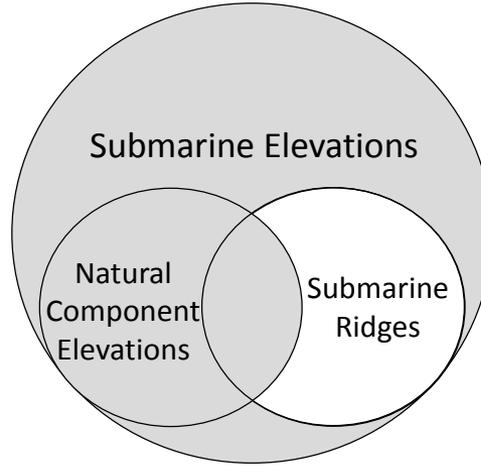
Interpretation C: Any natural component

Conclusions

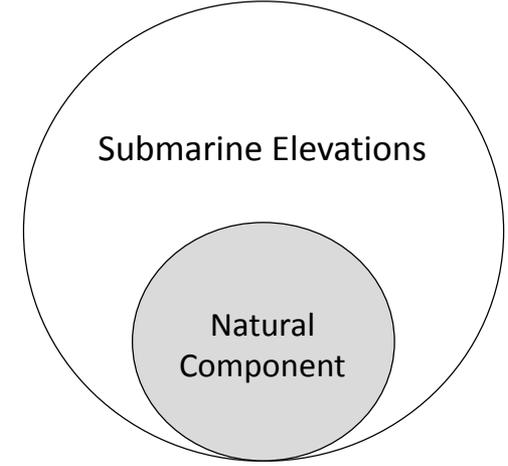
Interpretation A



Interpretation B



Interpretation C



May apply distance or depth constraint



May only apply distance constraint (350 M)

- Article 76(6) is not clearly drafted and may be subject to different legal interpretations
- Three interpretations considered: **A, B, C**
 - **A:** Legally acceptable, but unfavorable to coastal States
 - **B:** Legally acceptable, and favorable to coastal States
 - **C:** Legally questionable, and limiting for coastal States

Thank you!

U.S. delegation statement, UNCLOS III, 1980:

“....features such as the Chukchi plateau situated to the north of Alaska and its component elevations could not be considered a ridge and were covered by the last sentence of the [paragraph 6] of article 76.”

emphasis added

