

The legal continental shelf beyond 200 nm: opportunities for environmental protection

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Continental shelf: basics

[see Arts. 76 and 77 LOSC]

- **comprises** seabed and subsoil
- **brings** exclusive 'sovereign rights' for coastal State for purpose of exploring shelf and exploiting shelf's 'natural resources'
- **starts** at seaward limit of territorial sea
- **ends**, subject to neighbours, at 200 nm from baseline or potentially beyond

The legal continental shelf beyond 200 nm will be referred to here as the 'outer continental shelf' or 'OCS'

‘natural resources’

[see Art. 77 (4) LOSC]

‘The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species ...’

So a non-living element and a living element

‘living organisms belonging to sedentary species’

[see Art. 77 (4) LOSC]

‘... organisms which, **at the harvestable stage**, either are **immobile** on or under the seabed or are **unable to move except in constant physical contact** with the seabed or the subsoil.’

Examples – some clearer than others!

Sites hosting both sedentary and non-sedentary species

Interest: e.g. nutrition, bioprospecting, nature conservation

Marine environmental protection on the OCS

- use of sovereign rights regarding exploitation of natural resources that are '**non-living**'
- use of sovereign rights regarding exploitation of natural resources that are '**organisms belonging to sedentary species**'

Also: environmental protection **duties** in Part XII of LOSC

Interaction between OCS rights and high seas freedoms

‘The exercise of the rights of the coastal State over the continental shelf must not **infringe** or result in any **unjustifiable interference** with navigation and other rights and freedoms of other States as provided for in this Convention.’ [Art. 78 (2) LOSC]

See also, *inter alia*, Art. 116 (b) LOSC

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