

## Chapter 10

# Constant and Changing Components of the Arctic Regime

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In contrast to political science uses of the term “world order” as a “concept,” in legal literature it is deemed a legal reality. In other words, it refers to an established practice of international relations based on international law, one that displays reasonableness and mutual self-restraint of states and other international actors.<sup>1</sup> Since international law is a “*conditio sine qua non*”<sup>2</sup> of world order and the basic regulator of interstate relations, doctrinal legal debates between states with competing interests in a specific region usually focus on one key question: which part of international law is applicable to this particular region?

At the universal level, the Charter of the United Nations is the core of contemporary international law applicable to all regions of the world. The UN Charter is the only international treaty which supersedes rules of any other international agreement according to its Article 103; indeed the Charter defines first and foremost “the modern global security architecture,”<sup>3</sup> which is of great import for the Arctic Region. For here, in the circumpolar north, the United States and the Russian Federation—the two military superpowers of the world—are direct neighbors.<sup>4</sup>

Practically all seven principles of the UN Charter, embodied in its Article 2, are of key importance for maintaining legal order in the Arctic, from “the principle of sovereign equality” of states to the principle of non-intervention “in matters which are essentially within the domestic jurisdiction” of a relevant state. That was true in 1945, when the Charter was signed in San Francisco, and it is still true today, with the world’s attention to environmental and economic changes in the Arctic region increasing.

This chapter addresses the legal dimension of the environmental transformations taking place in the Arctic, which appear sometimes to

be overstated, while the region's legal stability (as a great international value across generations) is often underestimated. It must be noted, however, that one of the relevant legal principles (known to our ancestors and derived from Roman law), *quieta non movere*,<sup>5</sup> is notorious in international law. I shall first provide a general overview of the components of the Arctic legal regime, before embarking on an analysis of Arctic law as a unique component of this legal regime. I will then scrutinize universal treaties that apply to the regulation of relations between states, irrespective of their regional identities (such as the UN Convention on the Law of the Sea (UNCLOS) and various multilateral environmental agreements. After showing how the adoption of UNCLOS in 1982 and the subsequent increase in Convention signatories has affected the existing legal regime of maritime areas located to the north of the Arctic Circle, the chapter will conclude with a look into the future of the legal order in the Arctic.

### **Components of the Arctic Legal “Regime”**

The current legal regime of the Arctic polar area, as described in numerous publications, reflect two “juridical extremes.” The first is premised on the concept of Arctic sectors and meridian boundaries of the “polar possessions,” provided by the 1825 “Anglo-Russian Boundary Convention” and the 1867 “Russia-USA Convention Ceding Alaska,”<sup>6</sup> in its “broadest” interpretation: the seabed of the Arctic Ocean and the superadjacent waters and ice are qualified as being divided into five north polar sectors, within each of which a respective Arctic coastal state exercises its sovereign authority.<sup>7</sup> According to the second position, the Arctic Ocean, in a legal sense, does not differ in any way from the Indian Ocean. In other words, the UNCLOS is applicable, superseding all earlier international agreements concluded by Arctic states.<sup>8</sup>

Neither the first nor the second extreme position seems adequately to reflect contemporary international law applicable to the Arctic.

The distinctive component of the current Arctic legal regime is the phenomenon called “Arctic law”—the result of lawmaking in the past centuries by the Arctic states, which has historically determined the status of the Arctic spaces, and is a still on-going process at the bilateral

and regional levels. At the same time, the behavior of states in the Arctic—like in any other part of the world—is regulated by numerous universal agreements, starting with the UN Charter, as noted above.

In short, the Arctic legal regime has its continual and variable components. The first component—“Arctic law”—reflects the uniqueness of the historically developed status of the Arctic Ocean, its seas and the Arctic lands, including those which are ice-covered for most of the year. The second component is represented by the universal treaty rules of international law, which regulate relations between states regarding activities not only in the Arctic region, but also in other parts of the world.

### *Arctic Law*

Bilateral and regional agreements of the Arctic states—forming the special legal status of Arctic territories, delimiting boundaries on Arctic lands and in Arctic marine areas and aimed at the regulation of economic and other activities that inevitably disturb the Arctic’s fragile environment—are the primary fundamentals of the current legal regime of the Arctic. The role of this regional level of lawmaking by the Arctic states is the most important at the present time.

The primary step in the institutionalization of such a regional format was the adoption, in 1996, of the Declaration on the establishment of the Arctic Council by the United States, Russia, Canada, Denmark/Greenland, Iceland, Norway, Sweden and Finland, the so-called “Arctic Eight” (A8) states. The role of the Arctic Eight acting within the framework of the Arctic Council has been highly praised. Indeed, the Council’s Founding Declaration notes, above all, a “commitment to the well-being of the inhabitants of the Arctic,” “to sustainable development” of the region, and “to the protection of the Arctic environment, including the health of Arctic ecosystems, maintenance of biodiversity in the Arctic region and conservation and sustainable use of natural resources.” The list of members of the Arctic Council is conclusive—a conclusiveness determined by the strictly regional character of this institution. These are the only countries in the world whose territories are north of the Arctic Circle.<sup>9</sup>

“Permanent participants in the Arctic Council” include “the Inuit Circumpolar Conference, the Sami Council and the Association of

Indigenous Minorities of the North, Siberia and the Far East of the Russian Federation.” This list is not conclusive, for the permanent participation status “is equally open to other Arctic organizations of indigenous peoples,” if the Arctic Council determines that such an organization meets the criteria established by the Declaration. Some non-Arctic states, as well as international organizations, have since obtained observer status at the Arctic Council, in accordance with the 1996 Declaration. Through this institutional mechanism, the rational balance of interests is ensured between: a) states of the Arctic region—first of all, in the conservation and protection of the Arctic environment, and prevention of ecological disasters in this especially fragile region, as a result of which specific Arctic states would suffer; and b) non-Arctic states—mainly, in retaining equal (compared to the Arctic states) opportunities in utilizing the transport potential of the Arctic Ocean and taking part in environmental and science activities.

The provisions of the Ilulissat Declaration of the five Arctic Ocean states of May 28, 2008, confirm the legal status of the Arctic Ocean as it already stands, including under international customary law. In official documents, reference is to the “the five Arctic Rim countries”—Russia, Canada, the United States, Norway, and Denmark. What interests us is the history of their collaboration.

A first mention occurred in the early part of the 20<sup>th</sup> century. After the telegram of the American explorer Robert E. Peary to the U.S. President in 1909 that he could “gift” the North Pole to him, and after the suggestion by Edwin Denby, U.S. Secretary of the Navy, to the U.S. President in 1924 to add the North Pole (as a continuation of Alaska) “to the sovereignty of the United States,” Great Britain, acting on behalf of its dominion Canada, circulated a draft proposal convening an international conference of the five Arctic polar states. Yet a conference of the “Arctic 5” did not take place at that time.<sup>10</sup> Some five decades later, the Agreement on the Conservation of Polar Bears, signed by the five Arctic coastal states on November 15, 1973, was the first legal result of their cooperation. By 2008, in the Ilulissat Declaration the “Arctic 5”—highlighting their role as direct stakeholders adhering to existing laws—then proclaimed that they saw “no need to develop a new comprehensive international legal regime to govern the Arctic Ocean” because “an extensive international legal framework” applied already “to the Arctic Ocean.” Taking into account ice melting, they implied

that non-Arctic states could of course practice navigation, fishery, and other economic activities in the extremely severe Arctic polar waters according to existing applicable international law.<sup>11</sup>

It is in any case impossible to cross the Arctic Ocean from Asia to Europe, or vice versa, without crossing the areas that are under the sovereignty or jurisdiction of at least one of the Arctic coastal states. In those areas, including the 200-mile exclusive economic zones, everybody must comply with the environmental protection standards of the corresponding Arctic coastal state. And, under article 234 of the UNCLOS, such standards can be more stringent compared with standards prescribed by international environmental conventions or documents adopted by competent international organizations.

In this context the number and the content of bilateral agreements concluded by the Arctic states between themselves is noteworthy.<sup>12</sup> The most important regional agreements and other arrangements which constitute the fundamentals of the Arctic Law are presented in Table 1.

Significantly, three of these legally binding instruments were successfully negotiated within the framework of the Arctic Council. So today Arctic law is being developed first and foremost by the A8 through the Arctic Council. Council environmental declarations, for example, do not *per se* create rights and obligations under international law, to the extent that there has been no respective intention on behalf of the Arctic states. They are important, however, as reflecting ongoing changes in the Arctic, thus preparing smarter *de lege ferenda* (future law).

National legislative acts adopted by the Arctic states are also conservative (literally in the sense of conserving, not constantly amending) by their parliamentary nature. National legislation is not a source of international law, but its importance has been underlined in several cases by the UN International Court of Justice. Key national political documents of the A8 (their Arctic “strategies,” “policies,” “roadmaps,” etc.)<sup>13</sup> are especially prompt to address relevant environmental changes in the region.

In sum, Arctic law, showing the legal identity of the Arctic region, puts an emphasis on the peculiarities of nature in the region and on the historic title of the Arctic states, as revealed by ancient legal evidence (first created by Britain, Canada and Russia).<sup>14</sup>

**Table 1. Regional Treaties and Other Arrangements Applicable to the Arctic Ocean (Participation –non-Participation of the Arctic Coastal States)**

	Norway	Russia	Denmark	USA	Canada
Treaty concerning the Archipelago of Spitsbergen, signed at Paris, February 9, 1920	+	+	+	+	+
Agreement on the Conservation of Polar Bears, 1973	+	+	+	-	+
Declaration on the Establishment of the Arctic Council, 1996	+	+	+	+	+
Ilulissat Declaration, Arctic Ocean Conference, 2008	+	+	+	+	+
Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic, 2011	+	+	+	+	+
Agreement on Cooperation on Marine Oil Pollution, Preparedness and Response in the Arctic, 2013	+	+	+	+	+
Agreement on Enhancing International Arctic Scientific Cooperation, 2017	+	+	+	+	+
Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, 2018	-	+	+ **	+	+
Agreement on Cooperation on Marine Oil Pollution, Preparedness and Response in the Arctic, 2013	+	+	+	+	+
Agreement on Enhancing International Arctic Scientific Cooperation, 2017	+	+	+	+	+
Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, 2018	-	+	+ **	+	+

(\*) – signed but not ratified, (\*\*) – Ratified by the Parliament of Greenland

## The Universal Component of the Legal Order in the Arctic

The contemporary legal regime of the Arctic of course also includes universal treaties that apply to the regulation of relations between states irrespective of their regional identities—first, the UN Charter and the UNCLOS. As for the Law of the Sea and international environmental law, their most important treaty sources applicable by the Arctic states are demonstrated by Table 2.

**Table 2. Key Universal Treaties (Law of the Sea and Environmental Law) Applicable to the Arctic Ocean: Participation of the Arctic Coastal States**

	Norway	Russia	Denmark	USA	Canada
UN Convention on the Law of the Sea, 1982	+	+	+	-	+
Convention on the Territorial Sea and the Contiguous Zone, 1958	-	+	+	+	-
Convention on the High Seas, 1958	-	+	+	+	-
Convention on the Continental Shelf, 1958	+	+	+	+	+
International Convention for the Regulation of Whaling, 1946	-	+	+	+	-
Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972; including London Convention Protocol, 1996	+	+	+	+	+
Convention on International Trade In Endangered Species of Wild Fauna and Flora (CITES), 1973; including Bonn amendment, 1979 and Gaborone amendment, 1983	+	+	+	-	+
International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 and 1997	+	+	+	+	+
Protocols Relating Thereto International Convention for Safety of Life at Sea (SOLAS), 1974; including SOLAS 1978 and 1988 Protocols and SOLAS 1996 Agreement	+	+	+	+	+
Convention on the Conservation of Migratory Species of Wild Animals, 1979	+	-	+	-	+
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989	+	+	+	+	+
UN Convention on Biological Diversity, 1992; including Cartagena Protocol, 2000	+	+	+	+	+
UN Framework Convention on Climate Change, 1992; including 1997 Kyoto Protocol	+	+	+	-	-

Here we can see that there is no absolute identity of participation of all the Arctic coastal states in all these universal agreements.

With climate change, economic competitiveness issues among states in the Arctic have increased, especially as the Arctic Ocean becomes seen as a global transport resource and due to estimates that the Arctic Ocean could be ice-free, possibly by mid-century. In this vein, Arctic and non-Arctic states need to collaborate on the development of smarter environmental and maritime rules, to secure both the sustainability of the Arctic ecosystems, better safety of navigation and other economic activities in the region.

A more extensively contentious issue that awaits a legally sound resolution concerns the qualification of the legal regime of submerged and sub-glacial areas of this smallest-in-size, coldest and shallowest ocean on our Earth—in comparison to the huge Pacific, Atlantic and Indian oceans. In selecting the correct legal evaluation, one must make a decision as to whether, from the viewpoint of contemporary international law, the seabed of the Arctic Ocean beyond the 200-mile exclusive economic zones of the five Arctic littoral states represents only their continental shelf, which is subject to delimitation between them. Another option—in the high latitudes of the seabed around the North Pole—would be for each of the five Arctic coastal States to create, at the expense of its own continental shelf claims, an international seabed parcel—the area of “common heritage of mankind”—to be governed by the Authority established under the UNCLOS (Part XI, Section 4).

At the level of practical policy, there are various options. If the legislative practice of the Arctic states continues to play a leading role in determining the legal status of the Arctic, including their regional and bilateral arrangements (so far successfully), then international customary law as the basis of their rights in the Arctic will not be drastically changed and the Arctic states will conserve the pivotal importance of their coordinated practice in the region.

On the other hand, if political rivalry between the United States and Russia (or between other Arctic states) in other regions prevails, then most probably each of them will involve their non-Arctic allies in Arctic activities, including military activities. Such an option might

bring unpredictable negative consequences for the legal stability in the Arctic.

Political disagreements as arose between the United States and Russia over events in Ukraine (and with Crimea) in 2014<sup>15</sup> might impact the Arctic negatively too, and could potentially also lead to substantial legal instability in the region, with huge negative implications for world order.

Mutual suspicion between some Western and Russian citizens is certainly real. Indeed, the majority of Russian citizens firmly believe that the U.S.-led NATO alliance is a “number 1” potential invader into Russian territory. They base this opinion not merely on TV news but on the past. Russian memory is ingrained by the French invasion of the western part of Russia in 1812; British, French, German and American occupation of the northern part of Russia in 1918-1920; and the horrors of the Nazi invasion of the western parts of Russia in 1941-1943. Being invaded and occupied so many times, and having lost more than 25 million citizens in the Great Patriotic War against the Germans, Russia is very sensitive about its status, its security, and its boundaries, including sea boundaries.

In 1961, U.S. President John F. Kennedy declared in his speech in the United Nations: “We prefer world law in an age of self-determination to world war in an age of mass-extermiation.”<sup>16</sup> The formidable task today is to harmonize interpretation of this “world ” (international) law applicable to the Arctic, including by the United States and the Russian Federation. These two states have different approaches to the legal status of some Russian Arctic coastal areas, including the Vilkitsky Strait, which connects the Kara and Laptev Seas (the Strait is between Russian coasts of the continent and the Bolshevik Island). Existing legislation of the Russian Federation confirms that these coastal areas are internal waters of Russia, based on legal acts through the 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> centuries that formalized *de facto* control by Russia as a coastal state over its Arctic “possessions,” starting with the edict of Empress Elizabeth Petrovna dated March 11, 1753 (about “the exclusive rights of Russia in the Arctic waters along the Russian coasts” and “emphasizing the prohibition of merchant navigation from Europe to Siberia” without permission of Russian authorities). In the 18<sup>th</sup> century, these legal acts did not prompt protest by any state. In the 20<sup>th</sup> century, however, the

United States took the position that the Vilkitsky Strait does not have the status of internal waters but is instead an international strait.<sup>17</sup>

Of special legal significance for the universal level of world order in the Arctic Ocean are the global mechanisms created by the UNCLOS in 1982, even though they do not always work in the Arctic seas, due to the immense differences between the Arctic and other oceans noted above, and because one of the five Arctic coastal states—the United States—is not a party to the UNCLOS. Washington therefore does not need to fulfill, for example, the obligations set out in the Convention's article 76 (concerning ceding part of the seabed in its Arctic sector for the governance of the Authority) or article 82 (concerning obligation to pay to the Authority with respect to the exploitation of the continental shelf beyond 200 nautical miles). Consequently, the decision-makers of the Arctic coastal states have every reason to ask: if one Arctic state is not constrained by these restrictions and is not obliged to carry out these duties, why should Canada or Norway or Russia be expected to work within the set bounds or to "make payments" in respect of the exploitation of the non-living resources of the continental shelf beyond 200 miles according to article 82? If they do make such payments, however, the commercial conditions for their national companies in the activities on the sub-soil in the harsh conditions of the Arctic will be worse than that of U.S. companies. In contrast, a coordinated regional approach of all the Arctic states to the regime of the Arctic shelf—for example, agreement on a regional regime of exploitation of mineral resources of the Arctic shelf beyond 200 miles, would achieve equitable results.

### **A Growing Role for the UNCLOS in the Arctic Seas?**

The preparatory materials for the Third UN Conference on the Law of the Sea (where between from 1973 and 1982 the numerous drafts of the future Convention and relevant official and unofficial materials were discussed) show that the Arctic coastal states intentionally avoided broad discussion of the circumpolar north at the Conference.

During the Conference, the Arctic "Five" worked in a confidential format. As members of the Soviet delegation recall, they did discuss

among each other issues that touched upon the Arctic. Indeed, as is also corroborated by publications of the Canadian scholar and diplomat A. Morrison, they reached an informal understanding that it was in their interest to “suppress” all attempts to discuss issues of the status of the Arctic at the Conference. Morrison noted:

In looking to the Antarctic for inspiration and guidance, both from the perspective of similar physical conditions and from that of the Antarctic Treaty regime, the leaders of the Arctic countries appear to have dismissed certain aspects of that regime, having reached an unspoken agreement that the path of “common heritage” followed in the case of the Antarctic Treaty is not one they wish to follow.<sup>18</sup>

There is no convincing evidence to the effect that the A5’s agreed-upon intention at the Third UN Conference on the Law of the Sea was to regard the ice-covered areas of the Arctic as a special object of the future UNCLOS. Quite the contrary. Both polar regions, the Arctic and Antarctic, were thus excluded from special review at the Conference. It was deemed that both the Antarctic and the Arctic already enjoyed legal status that had been developed for each of them specifically—through the 1959 Antarctic Treaty and through numerous treaties and customary rules that dealt with the Arctic.

However, the adoption in 1982 of the UNCLOS and its entry into force in 1994 as well as substantial amendments to it regarding the legal regime of mineral resources in the seabed beyond the continental shelf—affected the status of maritime areas located to the north of the Arctic Circle.

These effects were unavoidable, irrespective of fundamental specifics of the legal regime of the Arctic outlined above. First, the majority of the rules enshrined in the 1982 UNCLOS concerning maritime areas located under the sovereignty of coastal states (that is, rules on internal waters and territorial sea) are simultaneously also customary norms of international law. Second, rules of the 1982 Convention regarding 200-mile exclusive economic zones, although they are relatively new (such rules were not present in any of the 1958 Geneva maritime conventions), are also attributed by a majority of scholars to customary norms of international law, and all five Arctic coastal states have established such 200-mile zones. Third, the UNCLOS provides a special section—“Ice-covered areas” in Part XII (“Protection and

preservation of the marine environment”)—that is certainly applicable to areas located in the Arctic.

### The Future of the Legal Order in the Arctic

The most urgent challenge to the legal order in the Arctic might occur if any of the key Arctic actors seeks to change the *status quo*<sup>19</sup> as established over the centuries, as is reflected in Arctic law and is also confirmed in the 2008 Ilulissat Declaration. The dialectic of the legal order of the Arctic, however, is equally that it cannot *per se* be static, considering environmental and other changes to the region.

Take the largest high seas enclave in the Arctic, the Central Arctic Ocean (CAO), an area of roughly 2.8 million k<sup>2</sup> that is enclosed by the EEZs of the A5. According to the Law of the Sea, the five Arctic coastal states have sovereign rights within their EEZs for the purposes of exploring, exploiting, and conserving natural resources and engaging in a number of other activities. They also exercise sovereign rights regarding the natural resources of the Arctic shelves extending beyond the limits of their EEZs. But the superjacent (more or less frozen) waters of the CAO are unambiguously areas beyond national jurisdiction.<sup>20</sup> The size of the CAO is dependent on legal factors subject to change over time. For example, when Norway drew straight baselines around the Spitsbergen Archipelago in 2001 (and no Arctic state protested, a tacit international agreement was reached),<sup>21</sup> the 200-mile fishery protection zone around the archipelago moved northward and the boundaries of the CAO were legitimately changed. Such changes may occur again in the future. The United States, for example, may follow the practice of Norway, Canada and Denmark by drawing straight baselines along the northern coast of Alaska.<sup>22</sup> Such changes in the delimitation of the CAO will not change the legal status of this marine area, if all the Arctic coastal states act in a spirit of collaboration on the basis of the Arctic law, relying on the mechanisms of bilateral and regional interaction.

It is thus desirable that the established practice of collaboration of the Arctic states via the Arctic Council is to be developed in a more effective manner. In particular, efforts might be needed to create a regional legal regime for the conservation of marine biodiversity

beyond the EEZ, thus providing additional impetus for preservation and protection of the Arctic marine environment. Other areas of collaboration of the Arctic states might include more concrete bilateral search and rescue mechanisms (based on the 2011 Regional Search and Rescue Arctic Agreement), emergency responses, such as the bilateral plans for elimination of oil spills with the best available technologies (rooted in the 2013 Regional Oil Pollution Preparedness Agreement), and also bilateral measures of preservation of the living marine resources in the CAO (founded on the 2018 CAO Fishery Agreement) and even precautionary plans to prevent piracy and other attacks in the Arctic waters.

Within the current climate trend it seems that the universal component of the Arctic legal regime propelled mainly by the UNCLOS will be developed with more involvement of the International Maritime Organization and other competent bodies and non-Arctic observers in the Arctic Council, both states and international organizations.

If there occurs, however, another regular phase of global freezing and an increase in ice-covered areas in the Arctic Ocean after 2100 (as predicted by the Russian Academy of Natural Sciences) then regional, bilateral, domestic legislative groups of norms, established by the Arctic states, will be even in more demand. In this case, further strengthening of the legal identity of the Arctic region and of the Arctic Council's role is to be forecasted. Inter-institutional reforms within the Arctic Council itself might be needed, taking into account the rising quantity of the Working, Expert and Task entities and relevant budget implications for the Arctic Council. A number of other interesting measures have been suggested by researchers to strengthen coordination between the Arctic Council and other Arctic entities with the aim of achieving cross-sectoral integration of measures, even including the creation of a marine science body for the Central Arctic Ocean.<sup>23</sup>

## **Conclusion**

The two world wars started in the Northern Hemisphere, not the Southern Hemisphere. However, the Arctic might well remain the zone of peaceful cooperation—all the while involving the world's military superpowers. And if it does so within a world order based

on international law, it contributes to the prevention of World War III. But it is recognized now that the danger of global world war has dramatically increased. There are tensions between the United States and Russia, as well as with China.

In such political circumstances the optimal option for “informed” Arctic legal policy seems to remain the same, especially for the strongest military powers—the United States and Russia: that is, to prevent activities that are prejudicial to the peace and political and military security in the northern hemisphere; and first and foremost to respect—not challenge—the region’s territorial status quo.

At the same time, all states, including non-Arctic actors, are interested in smart updates to the legal regional regime when it comes to economic activities, also in view of improvements in shipping safety, and the protection and preservation of the Arctic environment.

## Notes

1. I. Ivanov, ed., *Modern Foreign Science about International Relations, Vol. II* (Moscow: Russian International Affairs Council, 2015), pp. 418-421.

2. “*a condition which is of the absolute necessity*” (Latin).

3. S. Chesterman, I. Johnstone, and D. Malone. *Law and Practice of the United Nations - Documents and Commentary* (Oxford: OUP, 2nd edition, 2016).

4. The distance between Big Diomed Island (under the sovereignty of Russia) and Little Diomed Island (under the sovereignty of the United States) in the Bering Strait is about two nautical miles and the two states have successfully delimited the longest (in the world) maritime boundary between them in the Bering Sea, Bering Strait, Chukchi Sea and the Arctic Ocean in 1990 on the basis of the 1867 Convention Ceding Alaska to the United States. See O. Young, P. Berkman, and A. Vylegzhanin, *Governing Arctic Seas: Regional Lessons from the Bering Strait and Barents Sea, Vol. 1.* (Springer, 2020), pp. 9-12.

5. “*Not to unsettle things which are established*” (Latin).

6. According to these two international treaties and relevant Russian [“Postanovlenie Prezidiuma Centralnogo Iсполnitelnogo Komiteta SSSR” or the Decree, of 15.04.1926] and Canadian legislation [An Act, respecting the Northwest Territories, 1906; The Northwest Territories Act, 1925—the latter provides for “territories,” “islands” and “possessions”], the Arctic sector is formed by the Arctic state’s coast, bordering the Arctic seas, and the two meridians of longitude drawn from the easternmost point and from the westernmost point of such a coast to the North Pole. Within such a triangular sector, Canada, Russia and the United States may regard as its territory all “islands and lands.”

7. V. Lachtin, *Prava na severnie polyarnie prostranstva [Rights over the Arctic Regions]* (Moscow: Publisher of the Peoples Commissariat for Foreign Affairs of the USSR, 1928), pp. 18-30.

8. P. Berkman, A. Vylegzhanin, and O. Young, *Baseline of Russian Arctic Laws* (Springer, 2019), pp. xxiii-xxviii.

9. B. Baker, “The Developing Regional Regime for the Marine Arctic,” in E. Molenaar, A. Elferink, and D. Rothwell, eds., *The Law of the Sea and the Polar Regions—Interactions between Global and Regional Regimes.* (Leiden: Martinus Nijhoff Publishers, 2013), pp. 36-43.

10. Lachtin, op. cit., p. 5, 17.

11. Ilulissat Declaration, Arctic Ocean Conference, Greenland, May 27-29, 2008, <http://arctic-council.org/filearchive/Ilulissat-declaration.pdf>.

12. Berkman et al., op. cit., pp. 56-104.

13. English language texts of such documents are systemized in *Ibid.*

14. *Ibid.*

15. For a Russian view, see N. Azarov, *Ukraina na pereputier - Zapiski prem'era-ministra* [*Ukraine at the Crossroad - Notes of the Prime-Minister*] (Moscow: Veche Publishing House, 2015); and *Moscow Journal of International Law* 4, (2017) pp. 7-18. See also Ministry of Foreign Affairs of the Russian Federation, *WHITE BOOK on Violations of Human Rights and the Rule of Law in Ukraine (Nov. 2013—March 2014)*, published on the website of the Ministry of Foreign Affairs of Russian Federation, and [https://issuu.com/russiatoday/docs/white\\_book](https://issuu.com/russiatoday/docs/white_book). For a Danish view, cf. <https://www.fak.dk/en/news/magazine/Pages/ThePastasStrategy-RussiaanditsuseofhistoryintheUkraineconflict.aspx>.

16. S.H. Mendlovitz, ed., *Legal and Political Problems of World Order* (New York: The Fund for Education Concerning World Peace Through World Law, 1962).

17. N. Koroleva, V. Markov, A. Ushakov, *Pravovoi rezhim sudochodstva v Rossiiskoi Arktike* [Legal Regime

of Navigation in the Russian Arctic] 4, 61 (Moscow, Soizumorniiproekt 1995), pp. 24-29.

18. Berkman et al., *op. cit.*, p. xxiv.

19. “*the existing state of things at a given date*” (Latin).

20. A. Vylegzhanin, O. Young, P. Berkman, “The Central Arctic Ocean Fisheries Agreement as an Element in the Evolving Arctic Ocean Governance Complex,” *Marine Policy* 118 (2020), <https://doi.org/10.1016/j.marpol.2020.104001>.

21. Norway in its national law uses the term “Svalbard Archipelago” though the Treaty relating to Spitsbergen, 1920 (according to which sovereignty Norway over this Archipelago was provided), uses the term the “Archipelago Spitsbergen.” Norway can’t change the language of the Paris Treaty of 1920: the French and English texts of it are authentic, but not Norwegian (art. 10 of the Paris Treaty 1920). At the same time, Norway does not provoke any protests on behalf of the Parties for substituting in the long run the treaty term “Spitsbergen” for the national term “Svalbard.”

22. Today, the United States is the only Arctic coastal state that has not drawn straight baselines along its Arctic coasts. See I. Zhuravleva, *International Law Doctrines on the Current Status of the Arctic* (Belgrade; University of Belgrade - Faculty of Law, 2019), pp. 114-115.

23. D. Balton and A. Zagorski, *Implementing Marine Management in the Arctic Ocean* (Moscow: Russian International Affairs Council, 2020), pp. 18-22.