

Research report

Forum:

General Assembly 6

Topic:

Defining Legal Boundaries within
International Trade Routes in the
Arctic

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Introduction

The Arctic is not a big chunk of ice anymore it is really important for people who trade things with other countries. The ice is melting, that means ships can now go through areas that they could not go through before. For example there is the Northern Sea Route that goes along the coast of Russia and the Northwest Passage that goes through the islands of Canada in the Arctic. These new routes connect some of the markets in the world so countries are trying to claim them as their own.

When more ships start going through these icy waters things can get confusing very quickly. Who actually owns these routes? Who gets to decide who can sail through them and what rules they have to follow? The answers are not very clear. Every part of the ocean has its set of rules and countries like Russia, Canada, the United States, Denmark and Norway all say that parts of the sea and the land around it belong to them. Other countries think they should be able to sail through these areas without any problems. That is when the discussions start.

It all comes down to the law, and the main law book is the United Nations Convention on the Law of the Sea which people call the Arctic countries and the United Nations Convention on the Law of the Sea for short. The Arctic countries and the United Nations Convention on the Law of the Sea sets out borders and rules. Says who is allowed to do what. Even with the Arctic countries and the United Nations Convention on the Law of the Sea things are not simple. Important routes like the Northern Sea Route and the Northwest Passage cause a lot of arguments. The Arctic countries want to be in control, and the rest of the world wants the seas to be open for trade. It is always a balance.

One thing is clear: as the Arctic gets busier it becomes very important to answer these questions. Without rules trading becomes complicate, safety is affected and chaos happens. It is as simple, as that. If people want the Arctic to stay open and safe they need to have management and protection it is not something they can choose to do or not. The Arctic needs to have management and protection.

Definitions of key terms

Arctic

The Arctic is everything around the North Pole. This includes the Arctic Ocean, the land and sea that the countries around it own.

International Trade Routes

These are the paths that ships use to move goods from one country to another. In the Arctic the main routes are the Northern Sea Route and the Northwest Passage.

Maritime Jurisdiction

This is the power that a country has over the sea. The United Nations Convention on the Law of the Sea says that there are areas of the sea and each area has its own rules.

Territorial Sea

This is the water next to a country's coast. It goes out 12 miles. The country's laws apply here. Ships from other countries can usually pass through as long as they do not cause any problems.

Exclusive Economic Zone (EEZ)

This area goes out 200 miles from the coast. In this area a country can use the resources. Ships from other countries can still travel through it.

Continental Shelf

This is the seabed next to a countries coast. The United Nations Convention on the Law of the Sea says that countries can use the resources here. Sometimes this area goes beyond the Exclusive Economic Zone.

Freedom of Navigation

Ships from any country can sail through some areas. The United Nations Convention on the Law of the Sea says how much freedom ships have depending on where they're from.

Innocent Passage

Ships from countries can travel through a countries territorial waters if they do not threaten the peace or security.

Transit Passage

This is when ships travel through international straits. The United Nations Convention on the Law of the Sea has rules for this.

Polar Code

These are rules from the International Maritime Organization for ships in the Arctic. The rules cover everything from how ships are built to how the crew is trained and how to protect the environment.

Northern Sea Route (NSR)

This route goes along Russia's Arctic coast between the Atlantic and Pacific Oceans. There is a lot of debate about how control Russia should have over ships in this area.

Northwest Passage (NWP)

This is a route through Canada's islands that connects the Atlantic and Pacific. Canada says that this is its water, but other countries disagree.

General overview

These days people are paying a lot of attention to the Arctic. This is because the ice is melting and new shipping routes are opening. The Arctic is getting a lot of attention because of the Northern Sea Route and the Northwest Passage. With ships using these routes the question is who makes the rules and what rights foreign ships have.

Most of the rules come from the United Nations Convention on the Law of the Sea. This convention says that there are areas along the coast and each area has its own rules. For example, a country's territorial sea is 12 miles from the coast, and the Exclusive Economic Zone is 200 miles. Countries are in charge of their areas, but foreign ships still have some rights.

One big issue is how to classify the Arctic waterways. Are they part of a country's territory? Are they international waters? This matters because it decides if foreign ships can pass through. The United Nations Convention on the Law of the Sea has rules for international straits.

Russia has its rules for the Northern Sea Route. Russia says that this route is part of its territory and it has control over it. Other countries say that the route should be open to all ships. This is a debate about how to balance interests with global navigation rights.

Canada has an approach to the Northwest Passage. Canada says that this is its water and it wants to control it. Other countries say that the route should be open to all ships because it connects two oceans. This debate is not about maps it is about access to new trade routes.

There are also rules from the International Maritime Organization. These rules are called the Polar Code. Since 2017 ships in the Arctic must follow these rules. The rules are about how ships are built what equipment they have and how the crew is trained. The rules are also about protecting the environment.

Dealing with the law in the Arctic is complicated. Countries want to protect their interests, but they also want to keep the routes open, for global shipping. They want to encourage growth and protect the environment. The challenge is making national rules fit with agreements so that navigation stays safe and open and the environment is protected. The Arctic is a place, and it needs to be taken care of.

Major parties involved

The Russian Federation (Russia).

Since the Northern Sea Route (NSR) runs along The Russian Federation coast, also known as Russia, Russia controls and manages the Northern Sea Route (NSR). The Arctic is well known for its important shipping routes connecting the Atlantic and Pacific through waters. Russia has therefore created domestic laws regulating how the ships can use it, since they consider the area as a national transport route. Article 234 of UNCLOS allows Arctic coastal states to protect the fragile marine environment. But still, nations argue on how far Russia's authority under the Article 234 extends. They believe that certain Russian requirements go way beyond what the UNCLOS permits.

The Republic of Canada (Canada).

The Republic of Canada, also known as Canada, is claiming jurisdiction over the waters of the Northwest Passage (NWP). This area goes through the Canadian Arctic Archipelago. The waterways are connecting the Atlantic and Pacific Oceans. They stated multiple times: "The waters of the NWP are Canadian internal waters." They have based this statement through its historic title and international law. When the NWP is considered as internal waters, Canada has a lot of authority over the foreign vessels. If the area is an international strait, under the UNCLOS

rules, foreign ships have the right to transit the passage. The nation mostly wants the shipping in the Arctic to be regulated but still maintaining the Canadian sovereignty.

The United States of America (USA/US).

The Northern Waters via Alaska is bordered by the United States of America, also referred as the USA/US. From their standpoints you can see that they strongly support freedom of navigation. They often argued that they disagree with Canada and Russia over the control they have over the Arctic shipping routes. The USA believes that the NWP is a strait used for international navigation. Under UNCLOS Article 38 is stated that “Foreign ships have a right of transit passage through international straits”. Therefore, the USA argued that international vessels should be able to navigate the NWP without any requiring needed from Canada. The USA continued to consider freedom of the seas a major national priority.

The Kingdom of Denmark (Denmark).

The Kingdom of Denmark, also known as Denmark, has sovereignty over Greenland and the Faroe Islands. This territorial control gives Denmark a vital seat on the Arctic Council. They have influence over emerging shipping lanes, like the NWP. And responsibility for regional maritime seabed and safety resource claims. Denmark is one of the examples that Arctic territorial and maritime disputes can be handled in a peaceful way through respectful negotiation and international law. The nation uses article 76 mainly to establish the outer limits of Greenland’s continental shelf. Denmark supports safe and sustainable Arctic shipping since Greenland is strategically positioned between the Atlantic and Arctic Oceans. This allows shipping routes in the area to become increasingly commercially important.

Timeline of Key Events

Date

Key event

1958	The Geneva Conventions on the Law of the Sea were adopted, establishing early international rules on maritime boundaries and navigation.
1982	The United Nations (UN) adopted UNCLOS. It established the main international legal framework for maritime zones, navigation and continental shelves.
1988	The Arctic Cooperation Agreement concerning the navigation through the NWP was signed by the USA and Canada.
1996	To promote cooperation between Arctic states and Indigenous peoples the Arctic Council was established.
1997	UNCLOS officially entered into force, meaning that maritime rules are legally binding for its parties.
2008	The Ilulissat Declaration was signed by the five Arctic Ocean coastal states.
2014	Denmark submitted its claim concerning Greenland's continental shelf to the UN Commission on the Limits of the Continental Shelf.
2018	The Central Arctic Ocean Fisheries Agreement was signed to prevent unregulated fishing in the high seas of the Arctic Ocean.

2019	The UN received information submitted by Canada regarding its concern of its Arctic continental shelf.
2022	Canada and Denmark made an agreement which resolved their dispute over the Hans Island and established maritime boundaries.
2024	Canada released its Arctic Foreign Policy, emphasizing international law, Arctic sovereignty, Indigenous participation and peaceful resolution of maritime disputes.

Previous attempts to solve the issue

The UNCLOS has established rules in order to prevent disputes over EEZ's, territorial waters, continental shelves, international straits and freedom of navigation. The Arctic states use the UNCLOS to determine their maritime rights. However, some nations can interpret certain provisions differently.

For example, the Canada-USA dispute. Both nations had a different opinion about the NWP. Canada argued that the area is a Canadian internal waters, however the USA believes that it is an international strait. Therefore, in 1988 they reached the 1988 Arctic Cooperation Agreement. The agreement says that the USA agrees to seek Canada's consent before its government icebreakers navigate through the Canadian Arctic Archipelago.

In 1996 the Arctic Council was established. The council helped Arctic states to cooperate on issues regarding, environmental protection, shipping and emergency preparedness. The council purpose is mostly to promote cooperation concerning sustainable development and also environmental protection. But since it does not function as an international court, they therefore cannot for example determine sovereignty or maritime boundaries.

In 2018 the Arctic states negotiated an agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean. This agreement prevents overfishing and commercial fishing before scientists can determine if sustainable fishing is possible in the area.

The Canada vs Greenland (Denmark) dispute was successfully resolved in 2022. Both countries established their maritime boundaries in the Hans Island (Tartupaluk) region. They both also addressed the overlapping continental-shelf interest.

Possible solutions

The previous attempts have been mostly successful. However, the Arctic states still disagree about the exact legal status of certain waterways and the extent to which coastal states can regulate international shipping.

To prevent miscommunication all the involved Arctic States could come together and negotiate agreements on multiple topics.

An agreement based on the international trade routes could reduce disagreements such as the Canada-USA dispute. This agreement could define which particular waterways are international trade routes, which areas are internal waters, territorial seas etc. The agreement needs to be as specific as possible to prevent countries from interpreting the agreement differently.

Strengthening the role of the Arctic Council could give more coordination and help the nation negotiate if needed. To set permanent participants the group could develop common recommendations concerning for example environmental protection.

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