



UNIVERSIDAD COMPLUTENSE
MADRID

1st SPANISH SYMPOSIUM ON THE ARCTIC REGION

The Arctic facing International Law, Politics and Research

Madrid, 13th November 2013

Complutense University of Madrid

Faculty of Law
Salón de Grados

<http://arcticsymposium.tumblr.com>

PROCEEDINGS

Director: Dr. Elena Conde Pérez

Principal investigator of the research project "*The Race for the Arctic: international law issues considering climate change*" (reference number: DER2012- 36026), funded by the Spanish Ministry of Education (MEC)

Coordinator: Ms. Marzia Scopelliti

OBJECTIVES:

The main objective of the Symposium was to **create an interdisciplinary forum** for **discussion and debate** on the Arctic through the analysis of experts in the field. Including academics, scientists and representatives from different institutions, NGOs and policymakers, the congress intended to give a general overview of the most relevant issues related to the region as a result of the phenomenon of climate change, discussing the current situation of the North Pole and future possibilities for its usage and exploitation. The topic was approached with a **multidisciplinary method**, representing the Arctic through the perspectives of International Law, Social and Political Sciences, while providing a forum for the existing academic research on the region. Therefore the whole activity was prominent not only because of its subject, **highly relevant** and never before approached from the perspective of Public International Law at the Faculty of Law of the Complutense University of Madrid, but also because of the participation of speakers of international significance.



PROGRAMME

OPENINGS (09.30 - 10.00)

THE ARCTIC (10.00 - 10.30)

- AN INTRODUCTION. THE ARCTIC REGION FROM PUBLIC INTERNATIONAL LAW: MAIN CHALLENGES DUE TO CLIMATE CHANGE

BURNING QUESTIONS (10.30 - 11.30) First part

- HOT TOPICS AND KNOWLEDGE GAPS IN THE ARCTIC RESOURCE GOVERNANCE: PERSPECTIVES FROM NORWAY AND ICELAND
- SECURITY THREATS IN THE ARCTIC, STILL PRESENT?

PAUSE (11.30 - 12.00)

BURNING QUESTIONS (12.00 - 13.00) Second part

- ARCTIC PEOPLES: HOW TO BALANCE RIGHTS, DEVELOPMENT AND TRADITIONAL VALUES
- SCIENTIFIC RESEARCH IN THE ARCTIC: THE STATE OF THE ART

BREAK (13.30 - 16.00)

SPAIN GETS A NORTHERN DIMENSION (16.00 - 17.00)

- SPANISH INTERESTS IN THE ARCTIC
- SPANISH POLAR STRUCTURE
- COMPROMISING INTERESTS: DO ENTERPRISES FACE NGOs DEMANDS?

PAUSE (17.00 - 17.30)

THE EUROPEAN UNION IN THE ARCTIC (17.30 - 18.30)

- EUROPE PLAYING AN ARCTIC ROLE: THE PARTICIPATION OF EUROPEAN STATES IN THE ARCTIC COUNCIL AND THE LEGAL PROTECTION OF ARCTIC PEOPLES
- SUSTAINABLE DEVELOPMENT IN THE ARCTIC: EUROPE, MARINE GOVERNANCE AND NEW NAVIGATION ROUTES

CLOSING REMARKS (18.30 - 19.00)

BRIEF CONTENTS OF THE PRESENTED PAPERS:

OPENINGS

THE ARCTIC

- AN INTRODUCTION. THE ARCTIC REGION AND PUBLIC INTERNATIONAL LAW: MAIN CHALLENGES DUE TO CLIMATE CHANGE

Dr. Elena Conde Pérez

Tenured Professor of International Public Law at the Complutense University of Madrid



Bachelor Honours degree in Public Law from the Complutense University (February 1993). With scholarship from the National Plan on Research Personnel of the MEC (1993-1996), she received her PhD Honours degree in Public International Law (January 1997). As an internationalist, she has completed her academic training at prestigious international centers.

She is main researcher of the research project “*The Race for the Arctic: international law issues considering of climate change*” (reference number: DER2012- 36026), as well as director of the “*1st Spanish Symposium on the Arctic region: the Arctic facing the International Law, Politics and Research*”.

Spanish delegate to the *Social and Human Sciences Working Group of the International Arctic Science Committee* from 2012 till now.

In summer 2012, the extent of the Arctic ice reached the lowest ever known since satellites began measuring it for the first time in 1979. All scientific evidence suggests that the main cause of such an extreme process is the climate change of anthropogenic origins. Given the uncertainties surrounding the climate, it seems undeniable in the light of existing facts, reports and scientific studies that in future decades the Arctic will become increasingly ice free for even longer periods. This fact will definitely make it easier to be used for all kinds of human activities, creating both opportunities and risks.

Ever since there was knowledge of the extent of the climate change in the Arctic, warnings have emerged (especially in the mass media) about the so-called “race for the Arctic”. In this regard, we should note that, while it is true that Arctic States have undertaken a race to obtain scientific data so they could extend their sovereign zones toward the center of the North Pole (in particular, the prolongation of the continental shelf in terms of Article 76 of the *UN Convention*

on the Law of the Sea), from an overall perspective we can think of the Arctic as an area of cooperation, although not exempt from certain risks and threats resulting from the climate change.

The cooperation in the Arctic region in its broad concept (somehow undefined in its limits) has been revealed in several ways: the interaction among different legal disciplines has allowed to talk of the emergence of a “Polar Code” and exposed the complex challenges that faces the area; the main forum for international cooperation, the *Arctic Council*, whose possibility of becoming an international organization is highly promising; the existence of few sovereignty disputes over maritime boundaries, while the remaining ones move toward peaceful solution, based on classical premises of International Law.

However, the changes resulting from the complex process of climate change present challenges that may be approached with concrete possibility of solution only from the field of international cooperation. Moreover, there is a world of opportunities, risks and interests that are able to create some tensions: new sea routes; the delimitation of continental shelves beyond 200 n.m., compromising the High Seas’ extent (depending on the developments and practices registered in petitions submitted to the *Commission on the Limits of the Continental Shelf*); concerns for fisheries regulation that can cause the vanishing of the freedom of fishing in high seas, as well as the notion of high seas itself; risks for maritime and environmental safety etc. All this points to a possible conflicts between the interests of the coastal states - the powerful *Arctic 5* - and those interested in using the new ice free areas; conflicts that have to be resolved on the premises of existent International Law or by setting new regulations. In this respect, it is not unlikely that the new arrangements, especially the ones for shipping and fishing in high seas, will be adapted to the needs of the most powerful Arctic States, causing a new international balance.

In any case, we cannot speak of a homogeneous Arctic legal framework. With several exceptions, the Arctic States, among them the coastal one, remain generally conservative about the system being applied in the region, considering the *Arctic Council* the main forum for mutual cooperation. At the same time however, there are some coastal States -Canada and Russia- that reinterpret the classic Law of the Sea in their favor in what concerns the status of their respective sea routes; other States, which have traditionally been wary toward international organizations -like the United States-, on the contrary, seem to be in favor of the establishment of an *International Fisheries Organization for the Central Arctic*, opposing others like Norway. From the point of view of International Law of Indigenous Peoples, there are important shades regarding the protection regime under domestic law as well as the level of implementation of the existing International Law in the field. Still, through their influence as Permanent Participants in *Arctic Council* decisions, indigenous peoples in the region have developed a unique feature, unknown in other areas of the world.

The role that the *Arctic Council* will soon step into is highly remarkable, it will be given the possibility to become an international organization that will not only address issues concerning environmental protection and sustainable development but also security problems in a broader sense (the first steps have already been taken in this direction with the establishment of a Permanent Secretariat and the conclusion of international treaties on Arctic governance under its auspices). The interest of third parties in obtaining the status of permanent observers to the Council is also emblematic of this tendency. Although the main Arctic States - the coastal ones - use the Council to set their own governance of the polar region, other states have already realized the need of incorporating certain *balance* between inclusion/ exclusion of new permanent observers and the idea of internationalization/ regionalization of the zone. In the near future, this balance between opponents is likely to continue as a result of the main objective that seems to be to “include” in order to “control.”

An equally important actor, the European Union has traditionally been interested in the Arctic. Its contribution to the economic, scientific and social development of the region has been remarkable and yet, the Union is aiming at influence its legal regulation. Still, the reluctance shown by some Arctic States, especially Canada and Russia, has been the reason for the EU Arctic policy to evolve. Nevertheless, the Union is maintaining a low profile policy, in order to appear a legitimate actor with legitimate interests in the area, but has not yet been rewarded for its efforts with the status of permanent observer on the *Arctic Council*. This political punishment is totally unfair, given the amount of European activities and investments in the region.

In short, the Arctic is undergoing a process of unprecedented transformation. No state can address such a change alone. The main question is how to enable the existing cooperation mechanisms to continue maintaining protected the Arctic marine environment and resources, while indigenous peoples gain benefits from new opportunities of development, preserving their traditional lifestyles. Facing these challenges, International Law should be a key instrument enhancing the Arctic governance.

MORNING SESSION

BURNING QUESTIONS

- HOT TOPICS AND KNOWLEDGE GAPS IN THE ARCTIC RESOURCE GOVERNANCE: PERSPECTIVES FROM NORWAY AND ICELAND

Dr. Olav Schram Stokke

Professor of Political Science at the University of Oslo and Research Professor at the Fridtjof Nansen Institute (FNI)



Dr. Stokke has been affiliated with the Centre for Advanced Study at the Norwegian Academy of Science and Letters, the International Institute for Applied Systems Analysis (IIASA), and the University of Tromsø. His main area of expertise is international relations with special emphasis on institutional analysis, resource and environmental management, and regional cooperation. His recent books include *Disaggregating International Regimes: A New Approach to Evaluation and Comparison* (MIT Press, 2012), *Managing Institutional Complexity: Regime Interplay and Global Environmental Change* (MIT Press, 2011), and *International Cooperation and Arctic Governance* (Routledge, pb. 2010, Chinese version by Ocean Press of China 2014). He regularly publishes in leading international journals, including *Annals of the American Academy for Political and Social Science*, *Cooperation and Conflict*, *Global Environmental Politics*, *International Environmental Agreements*, *International Journal*, *Journal of Business Research*, *Marine Policy*, *Ocean and Coastal Management*, *Ocean Development and International Law* and *Strategic Analysis*.

The rapid regional changes associated with global warming are unlikely to significantly raise the level of interstate conflict over natural resources in the Arctic. Three stabilizers explain this situation. Economically, substantial continuity characterizes the conditions which so far have limited the accessibility and commercial viability of Arctic resources and navigation routes. Politically, the Arctic States have relatively few unsettled maritime boundary issues, and they manage the remaining ones in a cooperative manner. Legally, a globally accepted and regionally applicable framework, based on customary law and *the UN Convention on the Law of the Sea from 1982 (UNCLOS)*, obliges states to respond flexibly to new challenges emanating from increasing economic activities. The sovereign rights that coastal states have over most of the natural resources available in the Arctic severely delimits the roles of international institutions in resource management. Disagreement exist on certain issues, such as whether the *Svalbard Treaty*

has some relevance to resource management outside the territorial waters, but so far such disagreement has not impeded effective resource management. Increased economic activity in the Arctic calls for regulatory dynamism, sometimes involving international institutions, as in the case of fisheries outside the 200-mile zones of Arctic States. However, a circumpolar mechanism such as the *Arctic Council* (the most prominent circumpolar institution) can only play limited and supportive roles here, because most of the issues that require international collaboration, such as protecting the Arctic environment and shipping in the area, inevitably involve the non-Arctic states as well.

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Dr. Niels Einarsson

Director at Stefansson Arctic Institute in Akureyri (Iceland)



His expertise is focused on environmental anthropology; circumpolar sustainability issues; social and environmental impacts of fisheries management; and social capital and dynamics of fishing communities adaptation. In addition, Dr. Einarsson is interested in disputes on marine mammals conservation in the Arctic and North Atlantic; sustainable consumption and social adaptation to the climate change. He has led and participated in several international research projects with focus on the circumpolar region; including the *Arctic Human Development Report* (AHDR), which he co-supervised with Oran R. Young.

It is now well-known that changes in Arctic and adjacent Northern Hemisphere (NH) regions are occurring extremely rapidly in social, economic, political and environmental spheres, all inextricably linked locally and globally (see, e.g. Einarsson *et al.*, 2004; *the Arctic Monitoring and Assessment Program* (AMAP) <http://www.amap.no/>; <http://arcticcoasts.org/>; <http://dels.nas.edu/Report/Seasonal-Decadal-Predictions-Arctic/13515>). As global warming causes sea ice and glaciers to diminish at an alarming rate, human observers note the effect of both changes in seasonality and society in general. At the same time, both Arctic and non-Arctic nations and corporations are eagerly assessing the potential for the acquisition of natural resources such as oil and gas, and the opening up of new fishing grounds and stocks (Arbo, et al., 2012). The potential for developing shipping routes in high northern latitudes also has far-reaching implications for coastal communities, as well as for global politics (<http://www.arctic.noaa.gov/reportcard/>). Tourism is booming (Einarsson, 2012) and has many

implications for global business and northerly communities, which are currently experiencing a rapid transition and transformation in their means of pursuing a livelihood. Arctic regions have, for better or worse, increasing strategic value, and a warming climate is seen by many as a positive rather than a negative occurrence due to potential increased opportunities in economic development.

With so many upcoming issues and rapid developments there are enormous uncertainties. There is also public-interest demand for the scientific community to produce policy-relevant research results identifying crucial climatic and resource governance factors impacting northern societies and their inhabitants, as well as possible adaptation strategies. Here we also need contributions to a nuanced and sophisticated view of climate-people relations as complex and cumulative (Barnes *et al.*, 2013). To address the extent of the changes and their consequences, we need theoretical approaches that combine human and biophysical sciences in a multidisciplinary search for interlinked processes and systems influencing adaptive capacities of human societies in the north. This means we need a non-reductionist perspective and paradigm which is scientifically solid and is likely to produce research results that are highly useful for the societies and stakeholders we are concerned with, and accountable to.

Many Arctic settlements share common characteristics regarding general human ecology. They are small resource-dependent communities, in particular with regard to access to fish stocks. They are vulnerable with regard to ecosystem sustainability and exploitation of marine resources, so issues of resource governance, including responses to pollution and overexploitation, is key. But beyond the common denominators, there are rich cultural diversity and differences in the Arctic region, a fact we must bear in mind when we try and understand what is happening at the top of the world. In order to do this we really need, for pragmatic and practical purposes, what is called Arctic cross-cultural literacy. Such literacy also helps us to identify the hot topics and knowledge gaps in the region, especially in terms of what is important to the societies that have made the area their home. Most crucially it helps us to see changes and developments from the natives' point of view.

- SECURITY THREATS IN THE ARCTIC, STILL PRESENT?

Dr. Rob Huebert

Tenured Professor at the Department of Political Science and Associate Director of the Canadian Centre for Military and Strategic Studies (CMSS), University of Calgary. Board member of the Canadian Polar Commission since 2010



Dr. Huebert earned his Bachelor degree from the University of Manitoba, Master at the Carleton University and PhD degree from the University of Dalhousie. His research and professional interests are focused on international relations, comparative politics, Canadian foreign and defense policy, circumpolar relations and ocean policies. He is author of numerous publications related to security and defense problems and circumpolar relations. He earned a *Senior Research Fellowship* at the Canadian International Council; *Resident Fellowship* at the US Institute of the University of Calgary in 2008. He is also member of the Canadian Defence and Foreign Affairs Institute. In the 1999-2000 academic year he received the *Distinguished Teacher Award* from the Faculty of Social Sciences, University of Calgary.

An interesting set of debates have developed over the renewed role of military forces in the Arctic. As climate change began to remove the permanent Arctic ice cover, commentators began to assess whether there would be conflict over the vast resources of the region as it warmed. This debate is being resolved as Arctic States take steps to ensure that the resources of the Arctic are to be divided and subsequently exploited in a peaceful and cooperative manner under the terms of International Law. Following this one, a new debate is now emerging. While the Arctic States seem to have become dedicated to peaceful co-existence in the North Pole, they are increasingly dedicating more and more resources on new military capabilities to operate in the Arctic. A debate is now developing on whether these new capabilities represent reasonable force levels to provide for *security* in a newly-emerging region, or the beginnings of a new Arctic arms race and hence a return to the *militarization* of the Arctic. A third set of discussion has now emerged following the Russian actions in Ukraine. The question has emerged as to whether the conflicts that are occurring elsewhere will spill into the Arctic region. Tensions caused by the Ukrainian crisis has already been felt in the Arctic. How serious is this spillover effect for the security of the system?

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Lieutenant-Colonel Ángel Gómez de Ágreda. Air Force.
Head of Relations and Cooperation of the Cyber defense Command Set
Secretary General at the Spanish Ministry of Defence



His main research areas and professional interests include energy and environment, cyber security, Middle East. Colonel de Ágreda has also been Head of Logistics in the International Security Assistance Force (ISAF) deployed in Afghanistan and Professor of Strategy and Defense in the Spanish Ministry of Defense.

Referring to security issues in the Arctic, the lecturer gave an overview of the most significant stability threats in the Arctic region. Most threats are direct consequence of the receding ice cap, while some derive from the natural evolution of the geopolitical framework in Northern Asia. Therefore some concerns related to both national and human security are emerging in the area, ranging from the opening of these waters to local and foreign warships to migration and fight for control over sea routes and resources.



- ARCTIC PEOPLES, HOW TO BALANCE RIGHTS, DEVELOPMENT AND TRADITIONAL VALUES

Dr. Nuria Arenas

Tenured Professor of Public International Law at the University of Huelva, Faculty of Law.



Dr. Arenas graduated in Human Rights at the International Institute of Human Rights (Strasbourg, France). Lecturer at the University of Huelva on the following subjects: Public International Law, European Union Law, Comparative Law, European Asylum Policy. At the same time, gives classes on “International and European Law on Immigration and Asylum”, part of the PhD Programme “Globalization, Multiculturalism and Social Exclusion: development, policies, social work, migration” or the course on “University Immigration Expert” at the University of Granada.

She has been visiting professor at many foreign institutions. Forms part of the Board of the Migration Research Center at the University of Huelva (www.uhu.es/cim). After concluding her PhD dissertation on Temporary Protection Directive in the event of mass influx of displaced persons, her publications focused on International Law of Refugee and Common European Asylum System.

The increase in the temperature in the Arctic region and the consequent reduction in thickness and ice extent, as well as the melting of the permafrost, are causing negative effects on soil, air, water, and ecosystems. Even human settlements become in this way more exposed to climatic events and, in extreme cases, to an irreversible loss of the territory where indigenous peoples settle. The consequences of climate change in some areas of the Arctic would force these people to abandon their natural habitat and travel within the country, a phenomenon known as *climigration*. Twelve communities in Alaska are currently looking for new locations for its population (Kivalina, Newtok, Shishmaref, Shaktoolik, Allakaket, Golovin, Hughes, Huslia, Koyukuk, Nulato, Teller, y Unalakleet). In the most urgent case of Newtok, the flooding river is expected to reach the school in the town by 2017. The Inuit community in Canada, Tuktoyatuk, could be reduced to a mere sandbar in 30 years. In these cases, the measures taken to reduce environmental disasters are no longer effective, since the area is not liveable and displacement is the only option for their survival. Since the first report of the IPCC have been published in 1990, there have been warnings that the human migration could become one of the most serious effects of climate change. It is, therefore, important to analyze the present challenges in the Arctic region and the subsequent answers provided by the International Law.

Dr. Soledad Torrecuadrada García- Lozano

Tenured Professor of Public International Law at the Autonomous University of Madrid



She received her PhD in Law (1996) at the Autonomous University of Madrid. Master in International Relations at the University Research Institute “Ortega y Gasset” (Madrid, 1992). Graduated at the *Centre d’étude et de recherche de droit international et de relations internationales* of The Hague Academy of International Law (1996).

Since 2000, Leading Lecturer on International Law and International Relations at the Autonomous University of Madrid (credited as Professor by the National Agency of the Spanish Ministry of Education with resolution from 9 July 2012). Representative of the Autonomous University in the Law Committee of the Project of the “Campus Europae” Foundation (Luxembourg). She has given conferences and courses in both Spanish (Cantabria, Deusto, Granada, San Sebastián, Valencia and Vitoria) and foreign universities (Messina, UNAM in Mexico, Pan-American University in Mexico, USMA in Panamá, among others). Along with CEDDET Foundation (Center for Distance Education in Economic and Technological Development), she has been involved in online courses within the World Bank’s Global Development Learning Network. Author of five monographies, more than fifty articles in Spanish and foreign journals as well as papers published in collective works.

Indigenous people of the Arctic have been very vulnerable, especially in the last decades, due to the climate change. They are a human group with a great dependency on natural resources, endangered because of the negative effects arising from global warming and melting of the poles. These changes do not only affect their quality of life, but particularly their cultural identity, since the climatic conditions in which their existence has been developed for centuries are now changing rapidly. Taking into account their special situation, the EU enacted a Regulation banning the import and commercialization of seal products within the Union with an important exception: the trade of seal products from Inuit people is allowed. The exception was introduced to protect them since seal hunting is an important element of their culture and survival. However, the EU seal regime does not comply with WTO rules, since allowing seal products from Inuit does not meet the general objective of the EU regime, which is to minimize inhuman hunting and killing methods of Arctic seals. This is just an example of how difficult it is to combine the safeguarding of the Arctic natural resources and the rights of indigenous peoples without violating other rules of International Law, such as those of the WTO.

- SCIENTIFIC RESEARCH IN THE ARCTIC: THE STATE OF THE ART

Dr. Peter Sköld

Professor of History, Development of Sami Society and Culture at the University of Umeå (Sweden)



President of the International Arctic Social Sciences Association (IASSA) since 2014. Director of the Arctic Research Center and Senior Investigator at the Centre for Sami Research (CESAM). His expertise focuses on historical demography, indigenous health transition and north cultures.

He has been the Sweden delegate at the Barents Euro-Arctic Council in the Joint Working Group on Education and Research, as well as member of the Board of the Arctic University for more than ten years. Vice-president of the Social and Human Sciences Working Group at the International Arctic Science Committee (IASC); founding president of the Swedish Human and Social Science Polar Committee. In 2013 he was named Swedish delegate at the Arctic Social Council in the Economic and Cultural Expert Group. He was co-author in the Second Arctic Human Development Report (AHDR II).

The presentation highlighted the increased efforts of Arctic human and social sciences to contribute to a sustainable development in the region. The last decade has witnessed massive changes, and the human dimension perspective has evolved relevantly for the general understanding of the situation. This lecture provided an overview of the current state of the art with certain respect to cultural, economic, political, and social conditions throughout the Arctic. It also emphasized the importance of identifying trends and developing the monitoring systems, as well as the need to pay attention to the conditions for the indigenous peoples.



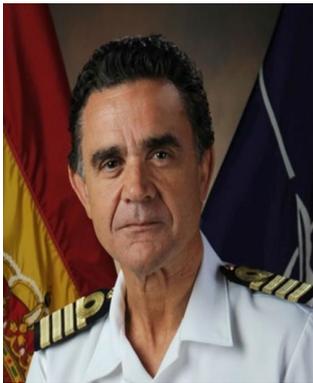
AFTERNOON SESSION

SPAIN GETS A NORTHERN DIMENSION

- SPANISH INTERESTS IN THE ARCTIC

Navy Captain Ignacio José García Sánchez

Deputy Director of the Spanish Institute for Strategic Studies (IEEE)



Coming from the Headquarters of the Allied Command Transformation in Norfolk (USA), he served as NATO Division Chief of Capabilities Program. Another destination where the NATO Planning Forces (2001 - 2004). Once completed the task of commanding the “Dolphin” submarine, he was assigned to the Operational Department of the Naval War College (EGN), where he received the position of Senior Lecturer of the department during the last year of the course on Naval War. Later he became lecturer of Strategy Studies during the first two years of the course on military Staff at the College of The Armed Forces (ESFAS) within the Center for Advanced Defense Studies (CESEDEN). Later, he was assigned to NATO in the area of Defense Force Planning.

The Deputy Director of the Spanish Institute for Strategic Studies (IEEE) contributed by explaining the most relevant features of maritime security strategy in the Arctic Ocean, referring not only to the polar region itself, but also to the cases of Europe and Spain in particular. In developing effective strategies, the security problem becomes central: there can be neither development without security, or security without development. Guideline that is becoming even more significant in such a fragile and possibly beneficial region as is the polar one. In this context and considering the global phenomena of shipping and trade, Spain is and must remain aware of the opening of new sea routes in the Arctic Ocean. Such aperture may lead to disagreements between States; so it is necessary to create mechanisms that bring justice, freedom and security within peaceful relations. In particular Spain, even without ports in the Arctic, undoubtedly has interests to defend because the change coming from the ice melting will affect Spanish ports. Even though the polar region still remains an inhospitable and harsh territory, it will be mandatory for Spain to consider the future development of the “Arctic question” just like the rest of the Arctic and non-Arctic states.

- SPANISH POLAR STRUCTURE

Admiral Manuel Catalán

Secretary of the Spanish Polar Committee



PhD in Physics at the Complutense University and in Nuclear Engineering at the University of California, Berkeley. Master of Advanced Studies in Physico-Mathematical Sciences, Astronomy and Geophysics; Master in High Energy Physics by the Nuclear Energy Board. Since 2003, Technical Secretary of the Spanish Polar Committee, National Delegate to the Committee on the Antarctic Environmental Protection and the IASC Board. He was also Director of the Royal Institute and Observatory of the Spanish Navy and the Spanish Navy School;

Honorary Professor of Applied Physics at the University of Cádiz; Commander and Scientific Director of the campaigns in the Southern Ocean in 1987/88/89/90 on board of the research vessels *Río Baker* and *Las Palmas* and in 2003/2005 on board of the *Hespérides*; in the 2012/13 campaign, he was inspector of the International Antarctic Treaty on board of the British vessel *HMS Protector*.

With its accession as advisory member of the Treaty in 1988, Spain consolidated its presence in the Antarctic assuming obligations derived from the investigation activities provided by the Treaty, relying on the scientific potential of two facilities: *Juan Carlos I* and *Gabriel de Castilla*, commanded respectively by the High Council for Scientific Research and the Spanish Army. Since 1991 these activities were enhanced by the Navy with its transfer of *Hespérides*, an advanced oceanographic research vessel. The Spanish polar activities are financed by the *National Program for Scientific and Technological Research*. To meet the needs of scientific equipment of these facilities was created *UTM-CSIC*, which assumed functions of logistical support in its broadest sense, including, among others, the maintenance of all scientific apparatus deployed by Spain and the operational planning of the campaigns. The *Spanish Polar Committee* is the national polar authority, responsible for coordinating all Spanish polar institutions working in the Arctic and Antarctic regions. Such coordination includes compliance with the Antarctic Treaty and its Protocol, monitoring and controlling over the obligations related to the Antarctic Environmental Protection, maintenance of database and archives of the National Polar Data Center located at the Geological and Mining Institute of Spain (IGME) by order of the State Secretariat for Research, Development and Innovation. The Polar Committee is chaired by the *General Directorate for Scientific and Technical Research*, which represents all active agencies and institutions for polar research. Spain currently has active representation in all the organizations of polar scientific activity in both the Arctic and the Antarctic regions.

- OPPOSED INTERESTS: DO ENTERPRISES FACE NGOs DEMANDS?

Ms. Pilar Marcos Rodríguez

Head of the Greenpeace Campaign “Save the Arctic”, Spain



Environmental biologist, Master in Natural Resources and Wildlife Management. She has been responsible for the proposed Marine Protected Areas Network of the World Wide Fund for Nature (WWF) that persuaded the Spanish government to declare the first marine protected area in the Atlantic Ocean, called *Cachucho*. Ms. Marcos Rodríguez has collaborated in the drafting of the marine chapters of the Act 42/2007 on Natural Heritage and Biodiversity Management, worked for the Spanish Cetacean Society on board of different research vessels. She has been observer at the conclusion of several international agreements like the OSPAR Convention, the Barcelona Convention and those of the General Fisheries Commission for the Mediterranean (FAO). Author of several scientific articles and reports, her areas of professional expertise include marine biodiversity policies and project management in NGOs.

In the last 30 years, as much as three-quarters of the floating sea ice cover at the North Pole has been lost. The volume of that sea ice measured by satellites in summer, when it reaches its lowest level. The ice has shrunk so fast that scientists say it is now in a “death spiral.” For over than 800,000 years, ice has been a permanent feature of the Arctic Ocean. It is currently melting because of the use of dirty fossil fuel energy, and in the near future the ocean could be ice-free for the first time since humans walked the Earth. A new Arctic oil rush is starting. *Shell, BP, Exxon, Gazprom, Rosneft and others* want to risk a devastating Arctic oil spill for only three years’ worth of oil. The same dirty energy companies that caused the Arctic to melt in the first place are looking to profit from the disappearing ice. They want to open up a new oil frontier to get at a potential 90 billion barrels of oil.



THE EUROPEAN UNION IN THE ARCTIC

- EUROPE PLAYING AN ARCTIC ROLE: THE PARTICIPATION OF EUROPEAN STATES IN THE ARCTIC COUNCIL AND THE LEGAL PROTECTION OF ARCTIC PEOPLES

Dr. Sara Sánchez Iglesias

European Court of Justice (Luxembourg)



Currently, jurist at the European Court of Justice. Previously, Dr. Sánchez Iglesias has been Professor of International Law at the Faculty of Law of the University of Cádiz, where she focused on European Law, Public International Law, International Human Rights Law and Environmental Law.

She has PhD degree in Law at the Complutense University of Madrid, LLM at the Yale Law School and BA in Political Science at UNED. She has conducted researches at the Max Planck Institute of International and Comparative Law, the Radboud University in Netherlands and the Centre for Research and Studies of the Hague Academy of International Law.

This intervention offered an overview of the different regulatory schemes affecting the rights of indigenous peoples in the Arctic region, from the point of view of human rights. More particularly, it analyzed the shortcomings of the European mechanism for the protection of human rights in addressing this particular situation and the collective needs of indigenous peoples in the protection of the Arctic. The performance of the Council of Europe, which monitors in particular the results of the cases that have arrived to the European Court of Human rights, was specifically taken into account. In this regard, the focus was on the obstacles and difficulties associated with access to courts and international protection mechanisms, taking into account the opportunities to litigate in order to defend economic and cultural interests and to question the legality of European Union acts affecting them adversely. Moreover, the different approaches to the rights of indigenous peoples by various international instruments were highlighted, in particular the right to property.

Ms. Marzia Scopelliti

Postgraduate, Master in International Relations, University of Milan



Postgraduate student at University of Milan, where she is concluding her Master in International Relations with a dissertation on Arctic governance through International Law instruments. She has been intern at the University Complutense of Madrid (2014, Faculty of Law) and previously Erasmus student at the same University (2013, Faculty of Sociology and Political Science). She obtained her BSc. Degree in International Science and European Institutions in 2012, and her area of research is the Arctic Governance with special emphasis on the Law of the Sea and International Relations. She is also interested in International and Urban Governance, European Law and sustainability.

The lecture gave an overview of the structure, functioning and main objectives of the *Arctic Council*.

At the same time the role of the European Union in the Arctic region was considered, underlying that exclusively its Member States and not the Union itself have received the status of Permanent Observers, together with other non-Arctic countries such as China, India or Singapore.

Moreover, the present European Arctic Policy, its priorities and principles were briefly analyzed in regards to whether a broader European participation and inclusion may be required to complete the existing Arctic Council System.

On the one hand, this would mean a way for the European Union to better address urgent future questions related to the region (e. g. fisheries, navigation routes, resources' use and extraction, indigenous peoples) in subjects where the European Union exercises an exclusive or concurrent authority with its Members. On the other hand, this possibility must be balanced with the current dispute related to the ban on seal products' import and commercialization.

Furthermore, when the discussion and adoption of the Arctic SAR Agreement (2011) under the auspices of the Arctic Council was considered, a further question arose towards the future role and development of the Council. Will it remain a *soft law* instrument aimed at the political discussion of present Arctic questions, or will it develop in a *hard law* instrument, acquiring the characteristics of an International Organization?

- SUSTAINABLE DEVELOPMENT IN THE ARCTIC: EUROPE, MARINE GOVERNANCE AND NEW NAVIGATION ROUTES

Dr. Marta Sobrido Prieto

Tenured Professor of Public International Law at the University of A Coruña



Currently responsible for the Academic Secretariat of the Institute of European Studies “Salvador de Madariaga” at the University of A Coruña and member of the Editorial Board of the Journal of European Community Law. Author of various scientific publications, she has conducted researches in the European Court of Justice (Luxembourg), the Centre de Droit et d'économie de la Mer (Brest, France) and the Faculty of Law of the University of Tromsø (Norway). Her areas of expertise include Public International Law and European Union law, with special attention to the Law of the Sea.

Commercial fishing in the Arctic and the European Union

Currently, Arctic commercial fishing is limited to the seas adjacent to the Central Arctic Ocean, which are waters under national jurisdiction or covered by Regional Fisheries Management Organizations (RFMO). However, the climate change has a number of consequences on fisheries. These have opened the debate about the future of commercial fishing in the Central Arctic Ocean, high seas that are not subject to any regulation (the geographical area covered by the North East Atlantic Fisheries Commission (NEAFC) comprises the European part of the ocean but the organization does not regulate these waters). For now, the five coastal states of the Central Arctic Ocean do not see the need to establish new RFMOs referring to this zone and advocated for the establishment of a moratorium on commercial fishing until there is greater scientific explanation of the situation (Nuuk Agreement, February 2014), seeking maximum international support. Although the EU has no direct access to Arctic waters, it is an international fishing power as well as an important market for fish products. It also forms part of the NEAFC and other ORPs that could expand their geographical scope to cover Arctic international waters.

Commercial fishing in the waters of Svalbard and the European Union

The Treaty of Paris recognizes limited Norwegian sovereignty over Svalbard. Where fisheries are concerned, the principle of non-discrimination is established for all vessels and nationals of the State parties to the Treaty. The Treaty of 1920 (in force since 1925) and the subsequent

development of the Law of the Sea raised doubts about its territorial scope: whether it should apply only to the territorial sea or also to the exclusive economic zone and / or the continental shelf of Svalbard? Neither the EU nor all of its Member States are party to the Treaty of Paris, but it is the Union who defends and manages the fishing interests of those European members that form part of the treaty. However, the issue is reason of conflict in the EU because such debate transcends fishing and affects other areas, most notably the exploitation of the resources of the continental shelf. So far, the EU has experienced two types of crises concerning fishing in Svalbard waters. About ten years ago, there was one relative to the capture of certain Spanish and Portuguese vessels whose flag states did not recognize the competence of Norway to take coercive and punitive measures. Such national position was at first supported by the European Commission. More recently, the adoption of discriminatory measures in relation to fishing of haddock provoked protest on part of the European Commission.

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Dr. Marta Iglesias Berlanga

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Lecturer at the Institute for Market Studies, the High Institute of Law and Economics and the Open University of Catalonia.

PhD degree in Law and Master degree in European Union law from the Complutense University of Madrid. She made various stays in Geneva (Switzerland) and The Hague (Netherlands) for her investigations and has also participated in several research projects.

Author of the monograph *“The legal regulation of the living resources at high seas”* as well as numerous articles; has made contributions to collective works.

The melting of the ice pack is accelerating the access to new natural resources (especially hydrocarbon) and the opening of new shipping routes, such as the Northeast Passage or Northern Maritime Route, the legendary Northwest Passage and Transpolar Route or Central Arctic Passage. The object of this intervention was to analyze from both geo-political and legal points of view the advantages and disadvantages of the navigation in Arctic waters, the interest of States in such navigation and their particular reasons for wanting to do so, the possible problems that may arise from the Public International Law, and the regulatory framework applicable to the polar regions, with special reference to the desirable creation of a Polar Code.



CLOSING REMARKS

Speech of the Ambassador Johan C. Vibe

Ambassador Johan C. Vibe

Ambassador of the Kingdom of Norway in the Kingdom of Spain



Secretary of the Royal Norwegian Embassy in San José (Costa Rica) from 1992 to 1995. First Secretary of the Norwegian Delegation to NATO (Brussels) from 1995 to 1997. Counsel and Special Advisor to the Cabinet of the Minister of Foreign Affairs since 1997 until 2001. Commercial Attaché / Head of Mission of the Royal Norwegian Embassy in Havana from 2001 to 2005. Special Envoy / Ambassador and Deputy General Director for the Department of Peace and Reconciliation at the Royal Ministry of Foreign Affairs from 2005 to 2009. Minister / Deputy Head of Mission of the Royal Norwegian Embassy in Washington from 2009 until June 2012.

***“Ladies and gentlemen, dear colleagues and friends,
good afternoon.***

It is an honour to participate in the closing remarks of the First Spanish Symposium on the Arctic, which have dealt with issues of great interest.

I'd like to express special gratitude to Elena Conde and the Faculty of Law of the Complutense University for organizing such a successful event. I think I speak in the name of many when I say that we are impressed by what Professor Conde has managed to organize quickly and with limited resources. I believe the success of the event and its broad national and international participation has a lot to do with your great personal commitment. You have personally visited many ministries, embassies, foundations and institutes to get the necessary support to gather such illustrious speakers. We are lucky to have a friend of the Arctic like you in Madrid.

For me it has also been occasion to get better knowledge of the distinguished group of people interested in the Arctic in Madrid. For us it is essential to increase the concern for managing the Arctic in Europe and worldwide. We defined the Arctic as our main foreign policy objective. Through cooperation and dialogue we desire a predictable, peaceful and stable development of the region. In this regard, we are grateful for the contribution of the

Complutense University to include these issues in the agenda of Spain.

During the event, many problems have been discussed: from security to fragile ecosystem and challenges for the economic development in the region. I will focus more on security issues and international cooperation, which are essential to my country.

The Arctic is changing. The main goal must be a responsible use of the emerging economic opportunities.

The region has much to offer and its economic potential is huge, mainly due to its natural resources - fisheries, marine resources, hydrocarbons and minerals. The increased level of tourism is also contributing: "Lonely Planet" has recently placed northern Norway at fifth place on their list of the best regions to visit next year. This implies the need of an adequate attention to environmental protection and sustainable management of natural resources.

For us there is no race for the Arctic. We see though an increased level of business and technological innovation in the region. Still, this development is not compatible with rivalry. Arctic States will better serve their own interests if acting in compliance with the International Law.

Security in the Arctic: Norwegian perspective

Geography, values and political systems shared by Nordic countries constitute to some extent our way of understanding security, which also influences on how we develop our security and defense policy.

It is highly important that the Arctic is not a distant region. The Norwegians have always lived and worked there, being Norway the country with the largest population living at the north of the Arctic Circle. It has always been an important goal to keep all our country well populated and value its resources. During the Cold War we have always sought to keep low tension and stability, despite the strategic importance of the region. The goal remains the same: maintain our region stable and secure.

The Arctic security means to maintain the Arctic an area of stability and international cooperation.

An important factor for to accomplish with this well-seated legal framework. On one side, the United Nations Convention on the Law of the Sea (UNCLOS) provides an integral international legal framework for seas and oceans, solidly grounded in the UN system. On the other, the treaty on maritime delimitation signed between Russia and Norway in 2010, is a good example for application of the Law of the Sea in the region.

There is also binding and effective international cooperation to promote adequate and sustainable resource management in the Arctic.

Furthermore, to respond to newly arising demands, new standards are being developed

within the framework of International Law. An example for this are the binding agreements on cooperation in areas of search and rescue and preparedness and emergency response in case of oil spills in the Arctic, signed between the eight Arctic States.

In addition, there are institutions for the Arctic countries to discuss both new opportunities and challenges in the region. The Arctic Council, involved in a wide range of issues concerning the Arctic Ocean, is the most important forum to discuss matters of common interest. I'd like to thank Marzia Scopelliti for her presentation on the role of the Council. This helped to increase our knowledge about the circumpolar world and placed the responsible decision-makers in a better position to ensure sustainable management of the region. The Arctic Council has strengthened its position with the establishment of a permanent secretariat in Tromsø, which reveals its increased political and economic relevance.

We support the renewed focus on the business and welcome the establishment of the Arctic Economic Council.

We are pleased with the great interest shown by several countries (Spain among them) and the EU itself to join the observers of this important international cooperation. It is our desire for all observers to consider the Arctic Council as the valuable tool that it is for the responsible development of the region.

Give me the opportunity to mention the important work of the Barents Euro-Arctic Council, an institution that exists since 1993 and involves all the Nordic countries, Russia and the European Commission in important programs for direct regional cooperation. It is an important instrument to consolidate relations of mutual trust among neighbors and strengthen the development of joint research projects and trade relations.

The Government of Norway aims to an ambitious but responsible policy for the exploitation of oil and gas in the Norwegian Arctic, where petroleum activities have been registered for decades. Much of the natural gas that reaches Spain in form of liquefied natural gas (LNG), comes from the Norwegian Arctic: the Snøhvit production center. We have had a gradual approach, opening new areas only after the industry proved to have the necessary competence and technology to meet the challenges. Such prudent management of the resources is producing positive social and economic effects, contributing to the energy security of Europe as well.

The responsible management of fish populations, based on scientific researches, is a main goal for Norway. In this context, regional cooperation is essential, and a good example is the Norwegian-Russian Fisheries Commission. Thanks to this cooperation that emphasizes on research, regulation and compliance, fish stocks in the Norwegian and the Barents Seas are among the best managed in the world. Such alliance clearly shows how economic interests in the Arctic can be best managed through cross-border cooperation.

I have to highlight the excellent relations between Norway and Spain on fishery issues. In the

last two years we have had two meetings at ministerial level in Madrid which confirm that the two countries remain among the most important actors in the formulation of fisheries policies in Europe, while cooperating closely on many other issues. As a result, we continue to provide the Spanish market with significant amounts of cod: traditional goods that unite our countries for centuries. The arrival of Skrei - the cod fish - in the Lofoten Islands between February and April, has already become an annual culinary event in Madrid.

Norway and Russia have a long tradition of cooperation

In 2010, after 40 years of intense negotiations, Norway and Russia signed an agreement on maritime delimitation in the Barents Sea and the Arctic Ocean. For us the clear delimitation of borders is a fundamental basis for smooth cooperation. However, Russia's recent violations of the International Law in Ukraine, has affected our relations. In this regard, I refer to the issues discussed by Lieutenant Colonel Ángel Gómez and Professor Huebert.

Compliance with International Law is not only the basis of our security, but also of the development of democracy and welfare. Therefore, Norway implemented the same restrictive measures and sanctions against Russia, like the EU. At the same time, our geographical location and common borders, make it necessary to work together on other issues, such as:

- *Search and Rescue*
- *Fisheries management*
- *Environmental protection*
- *Nuclear security*
- *Border and Coast Guard activities*
- *Cooperation between people from both sides of the border*

Russia is major player in the Arctic and its goals do not differ a lot from those of other countries. Russia has considerable military presence in the region, concentrated in the Northern Fleet. However, the ongoing modernization of the Russian Armed Forces must be considered at the light of reduced activity in defense after the collapse of the Soviet Union. The political and military development in Russia are and will remain important factors in the Norwegian security and defense policy. Therefore, Norway is closely following the Russian activities.

The security policy in the Arctic needs to be based on a modern and comprehensive notion of the term which includes territorial, ecological, economic, social and political dimensions. Thus, a collaborative approach is important for Norway. Meanwhile, the security policy - in its traditional perception - also has to be part of our instruments in the Arctic.

During the last two decades, there have been little tensions in the Arctic. Despite the difficult security situation in Europe, both Norway and the other Arctic countries have special interest in maintaining the low degree of discord. Therefore, we have military presence in the

region, while focusing on increasing our operational capacity, security presence and visibility. We hope that the other Arctic states are doing the same. In this regard, we have five modern frigates, built in Ferrol by Navantia. These vessels sail a lot in Arctic waters, but have also participated in many international missions.

In addition, five of the Arctic countries are founding members of NATO. The Alliance contributes to the stability and predictability in the region. A key priority for NATO in this regard is to preserve its disposition to follow and understand the development in the Arctic. Thus, from a global perspective, we must emphasize on:

- *Uniqueness of the Arctic*
- *Peace and stability*
- *International cooperation*
- *Existing institutional and legal frameworks*

Trade, cooperation and respect of International Law lead toward security and prosperity in the Arctic region, as well as other places in the world. In the future, the Arctic should remain an area of peace, stability, predictability and international cooperation. This should be our common goal and aspiration.

Thank you very much.”





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1st SPANISH SYMPOSIUM ON THE ARCTIC REGION

The Arctic facing International Law, Politics and Research

As Director of this congress, I'd like to thank all participants and speakers, all the public and students interested in the topic, as well as all the sponsors and supporting institutions of the present event: a prelude to future Spanish symposiums on the Arctic Region.

Thank you all!

Elena Conde



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