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Territorial Waters in the Arctic: The Soviet Position

S. M. Olenicoff

A Report prepared for

ADVANCED RESEARCH PROJECTS AGENCY

Rand
SANTA MONICA, CA. 90406

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PREFACE

This Report was prepared for ARPA's Office of Advanced Engineering as a part of the Rand project in Surface Effect Vehicles (SEVs) and Arctic Operations. It is intended as background material to assist in planning programs for advanced Arctic applied research in general and for advanced SEV technology in particular.

This Report should be of interest to defense agencies and others concerned with current and future applied research operations in the Arctic as well as to researchers in the international legal aspects of that area of the world.

The author is currently a consultant to The Rand Corporation.

SUMMARY

The Soviet Union has unilaterally taken the position that its territorial waters, including those in the Arctic, have an extent of 12 n mi from the coastline of the USSR. The United States, while adhering to the 3 n mi limit, has proposed moving toward international acceptance of a 12 n mi maximum limit if such acceptance includes provisions for freedom of navigation through and over international straits.

In the Arctic, the Soviet Government has in addition declared a "sector claim." First put forward in 1926, this claim asserts Soviet sovereignty over all lands and islands in the Arctic Basin sector from 32° 04' 35" E to 168° 49' 30" W. In subsequent writings on this 1926 decree, Soviet jurists have variously interpreted the sector principle to mean that the Soviet Union can claim not only the lands and islands within its sector, but also all or part of the following: (1) the open waters between the islands; (2) the waters between the islands and the mainland; (3) ice islands and the ice pack; (4) the remaining areas of the Arctic Basin within the "Soviet sector"; and (5) the air space above the entire sector. The Soviet Government has not followed up such interpretations with official decrees; but, at the same time, it has not repudiated them either, which implies tacit support.

The present policy of the Soviet Union appears to be a realistic one which recognizes the "high seas" status of the Arctic Ocean and its airspace. Quasi-official Soviet writings, however, continue to reiterate the concept of a "Soviet sector" in the Arctic Basin, the reason being that the Soviet Government probably wants to keep its future options open.

Over the years, the Soviet Union has also attempted to elicit acceptance of its claim that the Kara, Laptev, and East Siberian Seas, as well as the Sea of Okhotsk, should be considered as "closed seas" or internal waters of the USSR on historical and geographical grounds. The United States has rejected such quasi-official Soviet claims, but the American overt presence in these areas has been minimal.

Recently the Soviet Union has put renewed emphasis on the national character of the Northern Sea Route, referring to it as the "National Northern Sea Route" and identifying it as an internal shipping lane. The Soviets back up this contention with historical and "exclusive-user" arguments, and also cite the 1951 ruling of the International Court of Justice in the Norwegian Fisheries Case which established that Norway could validly claim its Indreleia sea route to be national and internal waters. The Soviets argue that their Northern Sea Route, stretching from Murmansk to the Bering Strait and beyond, should have the same status. Soviet emphasis on this will probably continue, as will their proprietary attitude toward their "sector" of the Arctic.

ACKNOWLEDGMENTS

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I. INTRODUCTION

The question of defining territorial waters in the Arctic Basin has often been debated, but still remains unresolved. This is due partly to the unique nature of the Arctic Ocean, which makes the definition of "waters" difficult and partly to the severe Arctic environment, which has kept man's presence there to a minimum. Consequently, there has not been a pressing need for a definitive resolution of what constitutes trespassing and what does not.

In recent years, however, the importance of the Arctic Basin as an arena for scientific, economic, and military activities has been rapidly increasing. This has accentuated the need for an international agreement on Arctic waters or, at least, a clear mutual understanding of the individual positions taken by the various Arctic-exploiting nations.

In this paper the author examines the evolution of the USSR's position on territorial waters in the Arctic Basin as expounded in official and quasi-official Soviet declarations, and as reflected in Soviet reactions to U.S. activities in the Arctic. For background, the U.N. and Soviet definitions of territorial waters are included as Appendixes A and B respectively.

II. ARCTIC BASIN TERRITORIAL CLAIMS

The Arctic Ocean is a vast and unique body of water, differing significantly from the rest of the World Ocean.

In another context, the author has described it thus:

> Like the face of an alien planet, it stretches across the top of the world...its waters held captive by an ever-present mask of ice. It is the only ocean in the world that can be crossed on foot...but no man has ever dared to do so. Scores of ships have been mercilessly crushed by its guardian icefields...the same paradoxical masses of ice that benevolently provide island-size floating platforms for scientific research stations. Stirred slowly by storm winds and sea currents, this perpetually shifting jigsaw of drifting ice crumbles and merges, expands and contracts, like a restless, breathing beast...stealthily opening up to reveal the mysterious depths beneath it, then closing with grinding impacts that push up towering and jagged ice ridges in its wake....

It is this unusual nature of the Arctic Ocean that makes it difficult to resolve questions of exactly where "Arctic waters" end and "Arctic territories" begin, and whether the concept of an "open sea" is applicable in the Arctic Basin. For instance, is Fletcher's Ice Island, on which a U.S. research settlement has flourished for nearly twenty years, to be considered as "Arctic Ocean waters" (of which, technically, it is composed) or as an "Arctic Ocean territory" (which, for all practical purposes, it is)? Is it correct to refer to the perenially ice-covered Central Arctic as the "high seas," when no ship has ever passed through it? Submarines, however, can navigate under it, while at the same time airplanes can land on its ice fields and tracked land vehicles can travel for hundreds of miles along its surface. One can say, therefore, that the Arctic Ocean has the characteristics of both land and sea, and yet, is totally unlike both.

Because of its inscrutable character, and the fact that until several decades ago it was an unexplored, blank spot on most maps, the first territorial aspirations in the Arctic Ocean took the form of "sector claims."

The precedent for sector claims was set by the early boundary treaties between states occupying Arctic territories. The Conventions

of 1824 and 1825 between Imperial Russia and England, for example, provided for a line of demarcation between the Russian and British North American territories that would extend beyond their respective Arctic coasts and would continue "...in its prolongation as far as the Frozen Ocean...."[1] The same sort of wording was used in the boundary treaty between the United States and Russia in 1867, following the U.S. purchase of Alaska. The treaty declared that the demarcation line "...proceeds due north, without limitations, into the same Frozen Ocean."[2] And so, there emerged the concept of sovereignty extending beyond the mainland and into the Arctic Basin. The countries benefiting most from such a "sector" concept are, naturally, those that have extensive coastlines bordering the Arctic Ocean.

It is thus not surprising that, to date, only Canada and the Soviet Union have made sector claims in the Arctic. Although these claims have not yet caused serious international disputes, they have cast an aura of uncertainty over territorial jurisdiction within the Arctic Basin. The "sector principle" on which the claims are based says, in effect, that all lands discovered or undiscovered, within a spherical triangle formed by the North Pole and the easterly and westerly limits of a country's Arctic Ocean coast, belong to the coastal state concerned or that this state should have at least a preferential right to acquisition.

As early as 1916, the Imperial Russian Ministry of Foreign Affairs announced in a note that all land between the Russian Arctic coast and the North Pole would be regarded as Russian territory.

In 1925, Canada put forward a sector claim that included all islands known or yet to be discovered within the longitudinal limits of 61°W and 141°W and extending "right up to the Pole." In 1928, the Canadian Government forestalled possible Norwegian claims to certain areas within the Canadian sector by paying the Norwegian explorer Otto Sverdrup $67,000 "for his services." Norway then recognized the claim of Canada to the areas in question, but specifically declined to recognize the sector principle. In 1955, when the Soviet ice-floe station drifted

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[1] T. A. Taracouzio, *Soviets in the Arctic,* The Macmillan Company, New York, 1938, p. 331.

[2] Ibid., p. 332.

into the Canadian sector, there was much discussion in official Canadian circles about the meaning of the Canadian sector claim and as to whether the Soviets had "invaded" Canadian territory. In debates that followed, it was brought out that Canada does not claim sovereignty in any form over the "high seas" within its sector, but that Canada perhaps should exercise some sort of sovereignty over the ice cover within its sector inasmuch as the ice fields have some of the aspects and uses of land (when they are used as airfields, for instance). The recent oil activity on the North Slope and the passage of the *Manhattan* through the Northwest Passage have spurred a new debate within the Canadian Government on the question of Canadian control over all navigation in waters north of Canada (one of the main concerns being the fear of possible oil spills and pollution).[3] Figure 1 shows the "Arctic sectors" claimed by Canada and the Soviet Union.

The Soviet sector claim was first put forward in 1926. It asserts Soviet sovereignty over all lands and islands, discovered or to be discovered in the sector from 32° 04' 35" E to 168° 49' 30" W, except for lands acknowledged to be foreign territory (such as Spitzbergen). In the late 1920s, Norway protested the Soviet sector claim because it negated the Norwegian claim to Franz Josef Land. The protest, however, was not advanced vigorously and Norway's claim to Franz Josef Land has since been abandoned.

In addition to their own sector, the Soviets acknowledged four other sectors belonging to Canada, Denmark (Greenland), Norway, and the United States (Alaska). As for the North Pole, located at the tip of all the sectors, V. L. Lakhtin, a noted Soviet authority on polar matters, writes:[4]

> As to the ownership of the North Pole, it should be remarked that the Pole is an intersection of meridian lines of the said five sectors. Neither legally nor in fact does it belong to any one. It might be represented as an hexahedral frontier post on the sides of which might be painted the national colors of the State of the corresponding sector.

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[3] D. Newman, "Government Faces Challenge on Arctic Sovereignty," *The Toronto Globe and Mail*, January 20, 1970.

[4] V. L. Lakhtin, "Rights Over the Arctic," *The American Journal of International Law*, Vol. 26, 1930, pp. 703-717.

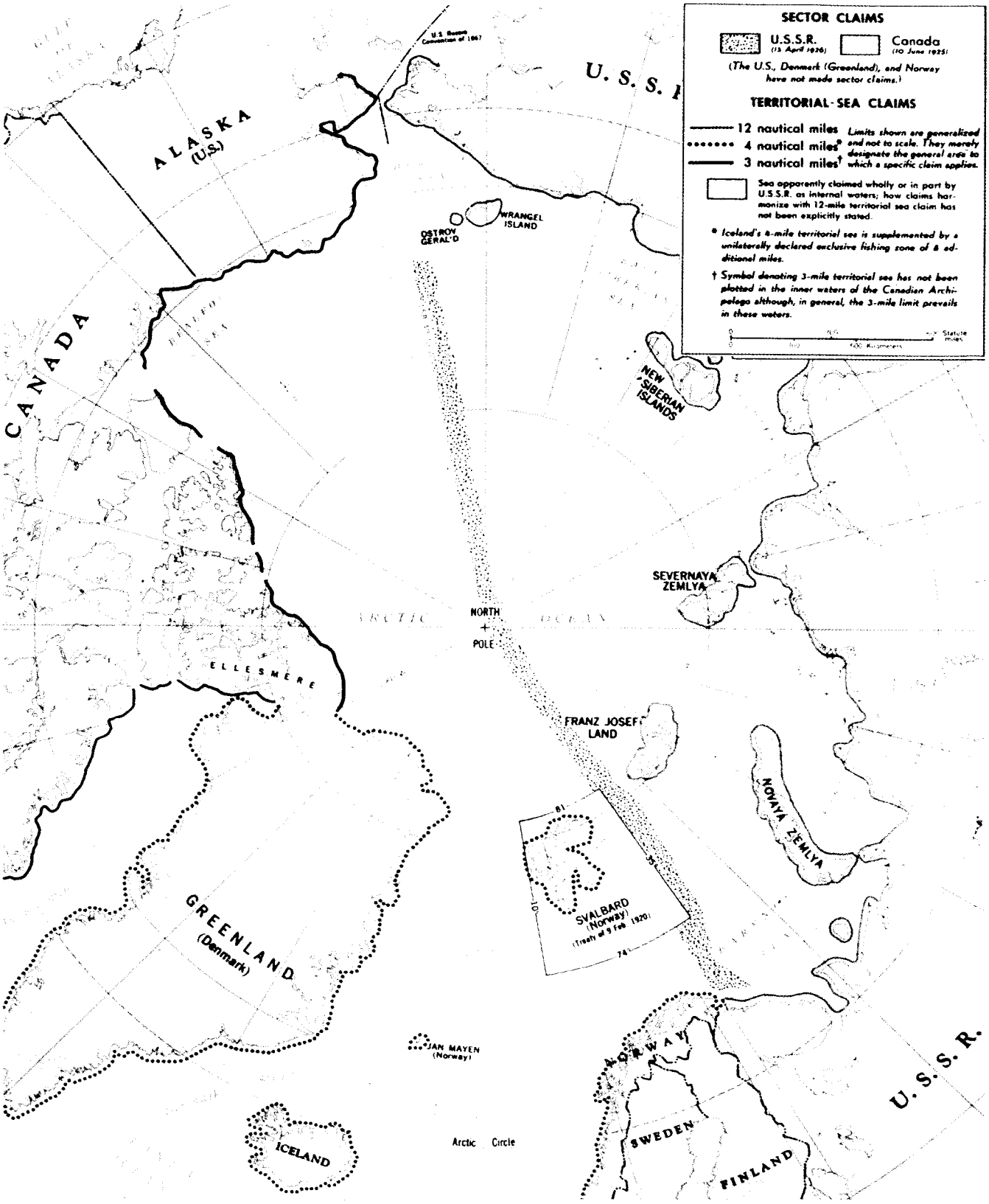

Fig. 1 — Territorial sea and sector claims in the Arctic

In subsequent writings on the decree of 1926, Soviet jurists have interpreted the sector principle to mean that the Soviet Union can claim not only the lands and islands within its sector, but also: (1) the open waters between the islands; (2) the waters between the islands and the mainland; (3) ice islands and the ice pack; (4) the remaining areas of the Arctic Basin within the sector; and (5) the air space above the entire sector. Claims of this nature can be found in the writings of V. L. Lakhtin,[5] S. A. Bergavinov,[6] E. A. Korovin,[7] L. Breitfus,[8] and S. V. Sigrist.[9] Although the claims put forward by these writers have the apparent support of the Soviet Government, the official USSR position on Arctic sectors is unclear.

The United States, Denmark, and Norway have not made Arctic sector claims and do not recognize such claims or the sector principle. Non-Soviet jurists have sharply criticized Arctic sector claims, pointing out that the sector principle has no basis in international law. Proponents of the sector principle, however, claim among other things that their theory is merely a variation of a common theme in the evolution of boundaries.

The question of Arctic sectors and territorial waters may be affected by the unprecedented 1951 ruling of the International Court of Justice in the Norwegian Fisheries Case. The Court's decision held that the extensive chain of islands off the Norwegian coast could be

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[5] V. L. Lakhtin, "Prava Soyuza S.S.R. V Arktike" (The Rights of the USSR in the Arctic), *Rabochiy Sud*, 1928, p. 1135; idem, *Prava Na. Severnyye Polyarnyye Prostranstva* (Rights to the North Polar Territories), Moscow, 1928.

[6] S. A. Bergavinov, "Flag Sovetov Nad Polyusom" (The Flag of the Soviets Over the Pole), *Sovetskaya Arktika*, No. 6, 1937, p. 26.

[7] E. A. Korovin, "Problema Vozdushnoy Okkupatsiyi V Svyazi S Pravom Na Polyarniye Prostranstva" (The Problem of Aerial Occupation in Connection with Claims to Polar Territories), *Voprosy Vozdushnogo Prava*, Vol. I., 1926, p. 104.

[8] L. Breitfus, "O Razgranicheniyi Severnoy Polyarnoy Oblasti" (On the Demarcation of the North Polar Region), *Morskoy Sbornik*, No. 1, 1927, p. 3.

[9] S. V. Sigrist, "Sovetskoye Pravo V Polyarnykh Prostranstvakh" (Soviet Law in the Polar Territories), *Rabochiy Sud*, 1928, p. 986.

considered a geological extension of the mainland, and therefore the fiord waters, extending 40 n mi out from the mainland in some cases, could be claimed as national or internal waters, with the zone of territorial waters starting at the outer rocks and shoals of the island chain and extending out to sea. It is difficult to say whether this ruling is applicable to island holdings in the Arctic Basin. Interesting to note, however, is the fact that the Norwegian Fisheries Case has evoked considerable interest on the part of the Soviets.[10] The significance of the Soviet interest is discussed in the section on "The Northern Sea Route."

Apart from the lack of international agreement on the width of territorial waters, the delineation of such waters in the Arctic poses additional problems. In many regions of the Arctic Basin, ice makes it difficult to fix the location of the shoreline, thus compounding the uncertainty for those attempting to define territorial waters and for navigators attempting to observe limits that have been defined. In general, international legal practice has accepted the principle of ignoring "temporary" ice coverage in delimiting territorial waters, but of taking cognizance of "permanent" ice formations such as shelf ice or tongues of glaciers that project into the sea, treating such projections as land. The permanent ice category, however, presents numerous problems such as determining whether the ice in question is indeed permanent, and dealing with "coastline" changes resulting from the waxing and waning of ice. Theories as to how territorial seas should be delimited in regions of permanent shore ice have had few tests because, in areas where such ice occurs, the need for pinpoint definition of territorial sea limits has been negligible. The Convention on the Territorial Sea and the Contiguous Zone adopted by the 1958 Law of the Sea Conference makes no provision for ice, either permanent or temporary.

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[10] A. N. Nikolayev, *Problema Territorial'nykh Vod V Mezhdunarodnom Prave* (The Problem of Territorial Waters in International Law), Moscow, 1954, pp. 119-132; see also P. D. Milovskiy and G. A. Glazunov, "Pretvoreniye V Zhizn' Leninskogo Plana Osvoyeniya Sovetskoy Arktiki" (The Realization of Lenin's Plan for the Development of the Arctic), *Morskoy Sbornik*, No. 6, 1970, pp. 83-88.

The question of the legal status of installations on ice floes and ice islands is also clouded and uncertain. International law, insofar as it has addressed itself to the problem, seems to regard installations on drifting ice as similar in status to ships on the high seas. Numerous U.S. and Soviet drifting stations have been abandoned in the Arctic Basin during the last two decades. Some of these stations have been subsequently found and visited. On one occasion, a disabled airplane abandoned by Americans on an ice floe was found by Soviet pilots from the drifting station North Pole-3, who promptly repaired it, and flew off with it. Whether legal title to vehicles, supplies, and equipment is retained after drifting stations are abandoned or left unattended is still an open question.

On the broader question of whether the occupation of ice floes or ice islands conveys any sort of permanent sovereignty, a German legal authority, D. Bohmert, is quoted as stating: "In that case [use of an ice floe as an air base or scientific station], sovereignty over such a floe would exist as long as the state authority was actually exercised. If the base were given up, the territory would thereby be relinquished."[11]

When the question of sovereignty over ice fields first emerged as an international topic of discussion, the views of Soviet spokesmen were mixed. Professor E. A. Korovin, commenting on Soviet sector rights, states:[12]

> Must the rights of the USSR be viewed as limited only to the few islands, and that the rest of the Arctic with its floating and fast ice-fields, inland lakes, straits, etc., is left by the Soviet Government for unlimited exploitation by any of the capitalist plunderers...? Obviously not, for such a conclusion would be in conflict with the whole idea of the Decree.[13] Hence this Decree must be understood to

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[11] H. B. Smith, *The Use of Polar Ice in Inter-Hemispheric Air Operations*, unpublished M.A. thesis, Georgetown University, Washington, D.C., June 1956.

[12] E. A. Korovin, "SSSR i Polyarnyye Zemli" (The USSR and Polar Lands), *Sovetskoye Pravo*, No. 3, 1926, p. 43.

[13] Korovin is referring to the Decree of 1926 in which the Soviet Union put forward its sector claim [Author].

> include in the conception of 'lands and islands,' as expressed by Soviet legislators, also ice formations and the seas surrounding them, for otherwise the polar sector adjacent to the USSR would have to be considered as an open sea with all the consequences resulting from such an interpretation.

Another Soviet authority, S. V. Sigrist, gives a similar interpretation to the 1926 Decree:[14]

> Interpreting this decree from the standpoint of the underlying idea, and not literally, we must admit that to the USSR belong not only 'lands and islands already discovered and those which may be discovered in the future' but also the areas among them irrespective whether there be there immobile or floating ice, or permanently frozen lands still unknown to us, for otherwise foreigners might think that between these islands there was 'open sea,' free for exploitation by every nation. In the spirit of the Decree we must maintain that the whole region from the Soviet mainland to the Pole is Soviet possession, even if it is just as difficult to go there as to climb the summits of the Caucasian, Ural, Altaian or other mountains the Soviet ownership of which has never been disputed.

A contrary point of view is expressed by V. L. Lakhtin:[15]

> We are of the opinion that floating ice should be assimilated legally to open polar seas, while ice formations that are more or less immovable should enjoy a legal status equivalent to polar territory.

A similar stand is taken by T. W. Balch, who also expressed the opinion that sovereignty cannot be declared over the Arctic ice:[16]

> ...it might be urged that men might permanently occupy the ice cover of the Polar Sea. But the ice at the North Pole is never at rest. It is in continual motion...

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[14] S. V. Sigrist, *op. cit.*, *Rabochiy Sud*, p. 984.

[15] V. L. Lakhtin, *Prava Na Severnyye Polyarnyye Prostranstva* (Rights to the North Polar Territories), Moscow, 1928, p. 33.

[16] T. W. Balch, "The Arctic and Antarctic Regions and the Law of Nations," *The American Journal of International Law*, Vol. 4, 1910, p. 266.

> and such possible occupation would be too precarious and shifting to and fro to give anyone a good title. And so the rules of...the freedom of the high seas would seem to apply.

One can generally say that a clash of basic conceptions underlies many of the uncertainties regarding sovereign rights in the Arctic. According to the long-standing view of international law, the Arctic Ocean outside a "reasonable" territorial-sea belt has high-seas status, regardless of its ice mantle. Opposed to this is the view that the Arctic is a unique region having characteristics of both land and sea, and so different from any other area on the earth's surface that it requires special adaptation of laws to deal adequately with its problems.

The U.S., Norway, and Denmark adhere to the first point of view, as also does Canada (but with some leanings toward the second concept). The second point of view has been put forward in the quasi-official writings of Soviet authorities on polar law. The Soviet Government has not followed up these writings with official decrees; but, at the same time, it has not repudiated them, either.

III. SOVIET REACTIONS TO U.S. ACTIVITIES IN THE ARCTIC

Over the years, the Soviets have exhibited a markedly proprietary attitude toward the Arctic in general, and especially toward the regions bordering the USSR. This stems to a large extent from the fact that the Soviet Union is very exposed and vulnerable along its northern border. It views the Arctic as an unfenced backyard and has always been wary of trespassers. Furthermore, the Arctic has been an almost exclusive Soviet preserve for so long, that the Soviets naturally feel a sense of ownership toward it and regard any non-Soviet presence there as a belated intrusion into an area that Russians have pioneered and "staked a claim" to.

This attitude is well reflected in the Soviet reactions to U.S. activities along their northern border. American-Soviet incidents in the Arctic go back as far as 1924. In December of that year, Chicherin, the Soviet People's Commissar for Foreign Affairs, sent a note to Washington that protested the fact that the U.S. Coast Geodetic Survey Service had set up a magnetic observation station on the Chukchi Peninsula in the vicinity of the Bay of Emma (situated across the Bering Strait from Alaska). Furthermore, almost as if to add insult to injury, the Americans erected a sign next to the station which read:

> Magnetic Observation Station of the Coast Geodetic Survey Service of the U.S.A. Penalty for removal of this sign--- $250 or imprisonment.

The Soviet protest on the "Bay of Emma Incident," delivered to U.S. Secretary of State Charles E. Hughes, read in part:[17]

> ...emphasizing, first of all, the fact that a United States man-of-war has several times visited the territorial waters of the USSR without any due consent of the latter, which is contrary to international law, I must call attention to the fact that the erection of such a station...is a gross violation of the sovereignty of the Soviet Republics.
>
> Protesting categorically to the Government of the USA against such illegal acts of its officials, who make no

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[17] T. A. Taracouzio, *The Soviet Union and International Law*, The Macmillan Company, New York, 1935, p. 55.

> distinction where the territory of their country ends and the territory of other sovereign states begins, I must emphasize the fact that such violation of the legal rights of the USSR will be suppressed by the Soviet Government by every available means.

There were no major incidents during the 1930s, and in the 1940s, the cooperative U.S.-Soviet effort against Germany and Japan precluded any Arctic confrontations during the war and the years immediately following it. In the course of the Allied wartime effort, the northern waters were a busy place, as vast amounts of military supplies were shipped by Arctic routes to Murmansk and other Soviet ports. Soviet Arctic airfields were used by American planes in shuttle-bombing operations and served as entry points for the delivery of lend-lease aircraft from U.S. bases. Also, a number of U.S. icebreakers were turned over to the Russians to aid in the navigation operations in Arctic waters. After the war, the Soviets were very reluctant to return these icebreakers, but finally did so after considerable U.S. pressure.

With the advent of the Cold War and the emergence of the Arctic as a strategic U.S.-Soviet arena, a tense and hostile atmosphere began to prevail in the northern regions. In 1955, a U.S. Navy "Neptune" patrol plane was shot down by the Soviets near St. Lawrence Island, southwest of the Bering Strait. The incident reportedly occurred on the U.S.-Russia Convention line of 1867, but was 20 to 30 miles from the nearest Soviet land. Although the Convention line was drawn merely to divide between America and Russia various scattered islands, islets, and rocks in seas not well known in 1867, the USSR seems to have treated the line as if it marked the seaward limit of Soviet territorial waters and air space. America protested the "Neptune incident" strongly, claiming that the plane had at no time violated Soviet air space. The USSR, in reply, claimed such a violation but tacitly admitted to error by expressing regret and offering to pay half the damages, an offer that was eventually accepted.

A number of other incidents in the same area were reported in the Soviet press during the early 1950s.[18] In every case, the Russian

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[18] *Pravda*, April 12, 1950; November 30, 1951; July 17, 1952; March 24, 1953.

accounts stated that "a U.S. military aircraft" intruded "into the airspace of the USSR," but "was driven off by vigilant Soviet interceptors."

Following the fatal Neptune incident, another U.S. plane was shot down, this time over the Barents Sea. The downed Air Force reconnaissance plane was reportedly at least 60 miles from the Arctic coast of the Soviet Union, but the Soviets claimed that it had "violated their air space."

In the summer of 1965, the U.S. Coast Guard icebreaker, *Northwind*, sailed from Norway into the north Eurasian seas on a data-gathering expedition. Part of the mission was to study currents, water temperatures and densities, plant life, and the geology of the ocean floor. Furthermore, the *Northwind* was under orders to traverse the Northeast Passage across the top of the Soviet Union. It was continuously shadowed, first by an eavesdropping trawler, then by a destroyer, and was occasionally harrassed by low-flying Soviet Badgers. Eventually it got as far as Severnaya Zemlya, but was then ordered by Washington to turn back, apparently due to strong Soviet diplomatic pressure.

In 1967, determined to try again, the United States sent two icebreakers, the *Edisto* and the *Eastwind*, on a similar mission. The ships started in the Barents Sea and again reached the vicinity of Severnaya Zemlya. This time, however, they were turned back by heavy ice conditions around the northern tip of Severnaya Zemlya. They could have passed easily through Vil'kitskiy Strait between Severnaya Zemlya and the Taimyr Peninsula, but the Soviets refused them passage, just as they had in 1965. The Soviet contention was that the 22 n mi wide straits were territorial waters since the USSR claims a 12 n mi territorial limit. America argued that, under maritime law, the right of innocent passage through straits connecting international waters is guaranteed. Although disagreeing with the Soviet position, the United States decided not to challenge it. The two U.S. icebreakers, denied passage through the Vil'kitskiy Strait, had no choice but to turn back. Additional details on the two traverse attempts by U.S. icebreakers

are contained in a number of more complete accounts.[19]

In an account of the *Edisto* and *Eastwind* cruise, author R. D. Wells writes:[20]

> While the two ships were working in the Arctic the Soviets were not idle. The American ships were kept entertained by a never-ending stream of Soviet Badger and Bear reconnaissance aircraft. These planes, flying sometimes in virtually zero-zero flying weather, never failed to develop an audience as they passed overhead. Flying over in clear weather at 500 to 1,000 feet, in poor visibility they would decrease their altitude a little at a time until they could make a visual sighting of the two ships. One of the giant Bears, lowering gradually step-by-step through the fog in the course of six passes, finally got a visual by passing between the icebreakers at a height of not more than 200 feet on his seventh pass.

Toward the end of the same article, the author makes this concluding comment:

> The question of territorial limits, of course, will not be quickly resolved. The scope of last year's disagreement over Vil'kitskiy Strait has been reflected already in the headlines across the country. It seems a bit strange that we should have Soviet electronics vessels three miles off Cape Canaveral and sailing the waters of Long Island Sound while the Soviet Government says 'nyet' to our transit and innocent passage inside of 12 miles.

Since 1967, no further U.S. attempts have been made to traverse the Arctic Basin's Northeast Passage. This is primarily due to the fact that the United States does not have the icebreaker capability to accomplish the task boldly. (Since the Soviets have denied Vil'kitskiy Strait to U.S. ships, the most difficult leg of a Northeast Passage traverse would be forcing the heavy ice north of Severnaya Zemlya.)

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[19] J. Y. Smith, "Coast Guard Ships Foiled in Arctic Passage," *Washington Post,* September 1, 1970; "Arctic Trip Frozen Out," *Science News,* Vol. 92, September 16, 1967, pp. 273-275; R. Petrow, *Across the Top of Russia,* David McKay Co., Inc., New York, 1967. (A condensed, identically titled version was published in the February 1968 issue of *Popular Mechanics*); and R. D. Wells, "Surveying the Eurasian Arctic," *U.S. Naval Institute Proceedings,* Vol. 92, No. 764, October 1966, pp. 79-85.

[20] R. D. Wells, "The Icy 'Nyet'!" *U.S. Naval Institute Proceedings,* Vol. 94, No. 782, April 1968, pp. 73-79.

If an American icebreaker were to get stuck in heavy ice during such a traverse attempt, the United States would be in the embarrassing position of having almost no choice but to ask the Soviets to free it. Of the few icebreakers that the U.S. Coast Guard now has, all but one are over 20 years old and under 10,000 hp. By contrast, the Soviet Union has over a dozen more powerful icebreakers, including the 44,000 hp nuclear-powered *Lenin,* among its total of more than 80 icebreakers. In addition, the Soviets have begun work on several 66,000 hp icebreakers and a giant 80,000 hp icebreaker. This will further strengthen Soviet capabilities in the Arctic, while U.S. capabilities remain inadequate.

IV. THE CURRENT SOVIET POSITION ON ARCTIC WATERS

There has been much confusion generated by the numerous Soviet declarations (few of them official, some of them contradictory, and many of them ambiguous) concerning territorial sovereignty in the Arctic Basin. What then can be said about current Soviet attitudes on Arctic waters? Outlined below is what appears to be the present position of the Soviet Union, based on its operational policy during the last two decades and on a survey of the most recent Soviet literature. In addition to summarizing the current Soviet position on Arctic waters, this Section attempts to distinguish the direction in which Soviet policy may be evolving.

THE "SOVIET SECTOR" CLAIM

Soviet spokesmen have frequently reiterated the sector claim of the USSR to all lands and islands in the Arctic Basin north of the Soviet mainland. For example, Capt. P. D. Milovskiy and Justice-Col. G. A. Glazunov, writing in the June 1970 issue of *Morskoy Sbornik,* the official journal of the Soviet Navy, state:[21]

> The most important declaration of rights by the Soviet Government in regard to arctic territories is the Decree of the Presidium of the Central Executive Committee of the USSR dated 15 April 1926, which established the geographical boundaries of the Soviet sector of the Arctic as being between the meridians of 32° 4' 35" E. and 168° 49' 30" W. Within the limits of this sector, the Soviet Union exercises full sovereignty over all lands and islands situated in the Arctic Ocean to the north of the USSR coast and as far as the North Pole.

Commenting on the present attitude of other Arctic nations toward sector claims, the *Encyclopedia Britannica* states:[22]

> Most countries interested in the arctic seem to have accepted the sector principle with respect to land

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[21] Op. cit., p. 86.

[22] *Encyclopedia Britannica,* Vol. 2, 1968 revision, p. 346.

> (that is, the arctic islands and territorial waters surrounding them), although the United States has at times maintained a noncommittal attitude. Consequently, it is unlikely that nations having sector claims would accept claims of any other state based on discovery or occupation; and conversely, nations making such discoveries are not likely to assert claims to lands or islands found in sectors of other states.

Today, with the Arctic Basin fully explored, this has become an academic issue since all Arctic islands have been discovered and claimed. As it has turned out, the territory of the USSR encompasses all the islands in what is claimed as the "Soviet sector," and no other country is disputing Soviet claims to these islands. The USSR, by the same token, is not claiming any territories in other sectors of the Arctic Basin. It can be said, therefore, that the Soviet and Canadian sector claims, the only two put forward at a time when the Arctic Basin was largely unexplored, are now synonymous with the status quo.

Why then do the Soviets continue to emphasize their 1926 sector claim? No one is disputing their sovereignty over all the lands and islands in their sector, and there are no unknown islands remaining to be discovered within it. The reason behind the Soviet policy is probably a desire to keep alive the concept of a "Soviet sector." By stressing this concept of a sector exclusively containing Soviet lands and islands, the Soviets are keeping open the option of possibly going a step further and declaring that the Arctic waters containing these Soviet lands and islands must be considered as Soviet waters. A number of Soviet jurists and Arctic authorities have already made such claims.[23] Although the Soviet Government has not officially made claims of this nature, it would seem to prefer to keep this option open through unofficial emphasis on the concept of the Soviet sector.

In the course of its extensive research and continuous work in the Arctic Basin, the Soviet Union has not treated the "sectors" of other countries as inviolate. Manned Soviet drifting stations have meandered over the entire Arctic Basin, and Flying Laboratory aircraft have made hundreds of landings on ice fields north of Greenland, between the

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[23] V. L. Lakhtin, S. A. Bergavinov, and E. A. Korovin.

Canadian Archipelago and the North Pole, and north of Alaska in the Beaufort Sea.[24] And, conversely, the USSR made no official reaction when U.S. ice stations drifted into the Soviet sector.[25]

Airspace over the high seas in Arctic sectors has also remained open. Soviet jurists have declared in their writings that the Soviet Union has sovereignty over the airspace above its sector.[26] The Soviet Government, however, has never officially made such a claim and probably will not do so in the future. During recent years, international airlines have been flying an increasing number of regular passenger routes over the Central Arctic. With the advent of the SST (and its incompatibility with populated areas), there will undoubtedly be many more flights over the Arctic Basin in the future.

In the course of their Arctic operations, the Soviets have flown all over the Arctic Basin and have made hundreds of landings in all the sectors.[27] Similarly, U.S. military aircraft in transit or performing some function in the Arctic Basin (conducting ice reconnaissance or supplying drifting stations), have frequently flown through the Soviet sector without incident. The Soviet Government, however, on a number of occasions has protested Arctic flights by nuclear-armed B-52s. In April 1958, for instance, the Soviet Union submitted a note to the U.N. Security Council calling for "urgent measures to put an end to flights

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[24] J. O. Fletcher, *Origin and Early Utilization of Aircraft-Supported Drifting Stations*, P-3395, The Rand Corporation, Santa Monica, California, 1966.

[25] In October of 1967, the author was on U.S. ice station T-3 (Fletcher's Ice Island) when it drifted into the Soviet-claimed Arctic sector at a point north of the Chukchi Sea. A rare overflight by Soviet aircraft took place on that day. Two Soviet ice-reconnaissance planes approached from the west, flew over the stations, then circled around and flew back in the direction from which they came. This may have been a symbolic gesture, but, more than likely, it was just an accidental coincidence -- considering the fact that the Soviets always make it a point to stay clear of U.S. stations and expect the same in return.

[26] See Section II, p. 6 and Appendix B, p. 41.

[27] Maps showing the extent and numerousness of the Soviet landings in the Arctic Basin are contained in footnote 24.

by United States military aircraft armed with atomic and hydrogen bombs in the direction of the frontiers of the USSR." In replying to this charge, the United States proposed an Arctic inspection zone, but this was immediately rejected by the Soviets. In February 1968, when a U.S. B-52 bomber with four hydrogen bombs on board crashed near Greenland while on airborne alert over the Arctic, the Soviet Union again issued a sharp protest against such U.S. flights.[28a]

As a rule, U.S. airborne-alert flights have prudently avoided the "Soviet sector" of the Arctic Basin. United States nuclear submarines, however, have not shied away from the Soviet sector, and Russian submarines, in turn, cruise the waters of other sectors.[28b]

It appears, therefore, that the present policy of the Soviet Union is a realistic one which recognizes the high-seas status of the Arctic Ocean and its airspace. This means that the oft-reiterated Soviet sector claim pertains only to the lands and islands within the sector, which all belong to the Soviet Union anyway. Although presently irrelevant, the Soviet sector claim could become a significant factor at some future time. For example, suppose some day it became technologically feasible to securely ground an ice island on the continental shelf, or to permanently restrict its movement to a small area.[29] The Soviets could declare that such an artifically created and permanent platform in their "sector" becomes part of the sector's "land and islands," and is thus subject to Soviet sovereignty.

Another possibility associated with the Soviet sector claim could be that the Soviets may intend to permit only "innocent passage" and

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[28a] "H-Bomb Hunt in the Arctic Night," *Life*, February 9, 1968; see also, "Missing: Four H-Bombs," *Newsweek*, February 5, 1968.

[28b] W. Lyon, "The Submarine and the Arctic Ocean," *The Polar Record*, September 1963, Vol. 11, No. 75, pp. 699-705.

[29] In the spring of 1960, Fletcher's Ice Island (T-3) was drifting westward in the Beaufort Sea. It passed within 19 miles of Barrow and, shortly afterwards, ran aground northwest of the Point. There it came to a total halt 80 miles offshore and in about 25 fathoms of water. The ice island remained immobile and at that same spot (71° 43' N, 161° 14' W) for almost two years, until a series of violent storms during January 1962 dislodged it and pushed it back into the current. This incident serves to show that the concept of a grounded ice island is not at all farfetched. See also "Ice Islands May Be Used As Ship Piers," *Los Angeles Times*, October 22, 1970.

"innocent overflight" in their sector. This possible Soviet intent has never been tested, since the United States has so far conducted only minimal surface and aerial activities in the Soviet sector of the Arctic Basin. Past Soviet reactions to U.S. military activities in the Arctic have been strong, even when such activities were far removed from the Soviet sector. If activities that the Soviet Union considered hostile were to take place inside the Soviet sector, the reaction of the Soviet Government would probably be much stronger, possibly to the extent that it would declare the "Soviet sector" of the Arctic Basin closed to all activities which it does not consider "innocent."

Still another possibility is that the Soviets may use their sector claim to make their side of the Arctic Basin completely "off limits" to the United States at some future time. This could be for reasons of "national security," or to counter U.S. activities, either in the Arctic or in some other part of the world. For example, if the United States should put tough restrictions on Soviet activity in and around Cuba (where the United States is strong and can enforce restrictions), the Soviet Union could counter by restricting U.S. activity in the Arctic (where the Russians hold the stronger hand).

TERRITORIAL WATERS IN THE SOVIET ARCTIC

Soviet doctrine has always asserted the right of a nation to unilaterally set the limit of the territorial waters along its coastline, according to that nation's own needs and interests.[30] The Soviet Union has declared the width of its own territorial waters, including those in the Arctic, to be 12 n mi. The Soviets have strenuously resisted all international efforts to set a lesser norm for all nations to adhere to. However, in negotiations for a 1973 United Nations Law of the Sea Conference, the Soviets are actively seeking multilateral agreement on a maximum breadth of 12 miles for the territorial sea.

The Soviets initially argued for the right of nations to unilaterally set their own territorial water limits in order to buttress the USSR's early 12 mi claim. Later, as more and more nations declared

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[30] See Appendix B, which discusses the Soviet stand on territorial waters in more detail.

12 mi limits for their territorial seas, such justification was no longer necessary. But, the Soviets continued to maintain their position in regard to unilateral determinations, due partly to the fact that it was a positive factor in their relations with developing nations and also because extended territorial sea claims tended to hamper Western naval activities more than their own. Furthermore, such extended claims created frictions between Western nations and developing states. In recent years, however, the Soviet Union's emergence as a major naval power has led to qualification of its position.

Starting in the mid-1960s the Soviets, though continuing to maintain that coastal states have a right to unilaterally determine the width of their territorial waters, qualified their statements by indicating that such choices should range between the limits of 3 and 12 miles. In recent years, the Soviet Union has also shown an increased intolerance toward claims exceeding 12 mi, labeling such extended claims as "excessive," "unrealistic," and "illegal."[31]

On the question of passage through their territorial waters, both in the Arctic and elsewhere, the present Soviet position appears to be as follows:

1. Commercial vessels have the right of "innocent passage," but are subject to Soviet regulations and surveillance. In addition, they must stay out of restricted areas and Soviet internal waters. At present, the only commercial ships that pass through the Arctic Basin are Soviet. This situation could, however, change in the future with the advent of Surface Effect Vehicles (SEVs) and submarine transports.

2. Foreign warships (a designation that covers all foreign naval vessels, including submarines) do not have the right of "innocent passage" without prior permission. Such permission must be requested through diplomatic channels "at least 30 days prior to the intended passage."[32] The Soviets include U.S. icebreakers in this category and

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[31] O. Bozrikov and K. Bekyashev, "Pravovoy Rezhim Prilezhashchikh Morskikh Zon" (Law Regime of Contiguous Sea Zones), *Morskoy Flot*, Issue 1, 1970, p. 55.

[32] G. S. Gorshkov, "Mezhdunarodno-Pravovoy Rezhim Tikhogo Okeyanna" (International Law Regime of the Pacific Ocean), *Morskoy Sbornik*, No. 7, July 1970, p. 94.

list them as "naval vessels." All U.S. icebreakers are now operated by the Coast Guard. Prior to 1966, the icebreakers were operated by the U.S. Navy. When the *Eastwind* and the *Edisto* sailed into the waters of the "Soviet sector" with the dual purpose of gathering scientific data and traversing the Northeast Passage, the Soviets referred to the U.S. icebreakers as "warships." Although the icebreakers are certainly not warships as such, each does carry twin-mounted five-inch guns on its bow, and standard Coast Guard armament.[33]

3. The Soviet Union does not permit research activities in its territorial waters without prior permission. This apparently means that research vessels (which can gather data at any time and in a continuous fashion) do not have the right of "innocent passage" without requesting and receiving permission beforehand (similar to the regulation pertaining to warships). As research activities multiply in the Arctic regions, the question of passage will be of importance to oceanographic vessels and weather ships, especially since the greater part of the Arctic Ocean is unnavigable and the research vessels would probably have to operate close to the coastlines.

4. Although the Soviets claim to adhere to Article 16.4 of the Convention on the Territorial Sea and Contiguous Zone,[34] which grants the right of innocent passage through "international straits," they have apparently taken the position that the straits along the Soviet Arctic coastline cannot be construed as "international straits." The straits in question are Karskiye Vorota Strait (between Novaya Zemlya and Vaygach Island), Vil'kitskiy Strait (between Severnaya Zemlya and the Taimyr Peninsula) through which the U.S. icebreakers were refused passage, Sannikov Strait (separating the Novosibirsk Islands), and Dimitri Laptev Strait (between the Novosibirsk Islands and the Soviet mainland). The Soviet contention is that these straits are not, in the language of the Article, "used for international navigation between one part of the high seas and another part of the high seas." This

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[33] J. Y. Smith, op. cit.

[34] Article 16.4 is quoted in Appendix A.

presently stands as a true statement. Its truth is due partly to the inability of international shipping to operate in the Arctic environment and partly to the fact that the Soviets have not allowed foreign vessels to pass through the straits. Thus, the Soviet contention emerges as valid by default. These straits connect seas which are presently being navigated only by the Soviet Union, and it certainly cannot be said that they are used for "international navigation." The U.S. icebreaker cruises that ventured into these areas were really nothing more than experimental probes. If, at some time in the future, cargo-carrying SEVs and submarines become a reality, the Soviet Arctic straits may emerge as important passageways for international navigation, in which case international law would require that they be unconditionally open to all ships. At present, however, since there is no international traffic dependent on these straits, the Soviet Union is keeping them national by invoking its territorial-waters limit across them.

5. The Soviets do not permit foreign aircraft to fly over their territorial waters. Since the entire Arctic coastline of the Soviet Union is a defense zone speckled with military installations, the Soviets have been especially touchy about foreign (especially American) aircraft operating close to their northern borders. (As was mentioned in Section III, this is where most of the U.S.-Soviet incidents have taken place.) One can be sure that the stringent Soviet attitude toward foreign aircraft near their Arctic borders will continue. Strong Soviet reactions can be expected not only in the event of intrusions into the airspace over their territorial waters, but also as a result of foreign aircraft even coming within 50 to 100 miles of Soviet territorial waters.

Following the incident on October 21, 1970, when three U.S. Army officers in a light plane blundered across the Turkish border and were forced to land in Soviet Armenia, the Soviet Government vigorously protested what it called "frequent U.S. violations of Soviet air space," and scoffed at American claims that most U.S. violations have been accidental strayings by pilots on innocent missions. A Tass news

agency release commenting on the incident reflects Soviet sensitivity about their borders, especially in the Arctic:[35]

> The American bases situated close to the Soviet Union are being widely used for espionage and other hostile activities...American propaganda is trying to picture this border violation and past violations as small accidental incidents not worthy of serious attention. Washington officials say, for example, that at least half of all these violations in the past three years were done by hunters for polar bears.... But the main question is why in general these U.S. military planes find themselves along Soviet borders--were they looking for polar bears on the borders of Soviet Armenia?

INTERNAL WATERS OF THE SOVIET ARCTIC

The Russian term "*vnutrenniye vody*" frequently appears incorrectly translated in the U.S. literature as "inland waters." The correct translation for this term is "internal waters." The term "inland waters" usually refers to water features of the landscape, such as lakes, rivers, and canals. "Internal waters," on the other hand, refers to water areas along a coast, such as bays, inlets, ports, mouths of rivers, estuaries, etc. According to international law, a coastal state has the same complete sovereignty over its internal waters that is has over its land areas, and "innocent passage" is not permitted through such waters. At times, there has been disagreement as to what constitutes "internal waters" and there are no universally accepted international criteria for making this determination.

The Soviets have defined the "internal waters of the USSR," both in the Arctic and elsewhere as follows:[36]

1. The waters of ports, bounded on the seaward side by a line connecting the outermost points of the hydrotechnical or other port structures;

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[35] "Russians Scoff at U.S. Claims of Pilot Error," *Los Angeles Times*, Sec. A, p. 9, November 1, 1970.

[36] B. M. Klimenko, *Pravo Prokhoda Cherez Inostrannuyu Territoriyu* (The Right of Passage Through Foreign Territory), Foreign Affairs Publishing House, Moscow, 1967, p. 48.

2. The waters of gulfs, bays, inlets, and estuaries, the shores of which belong entirely to the USSR, bounded on the outside by a straight line extended from shore to shore at a point where, on the seaward side, one or several sea lanes become possible;

3. The waters of gulfs, bays, inlets, and estuaries, as well as seas and straits, which have historically been possessions of the USSR.

K. G. Tsimanovich, writing in a geographic periodical, elaborates a little further:[37]

> From this it follows that all gulfs, inlets and bays whose width on the seaward side is less than 24 miles, regardless of a greater width further inland, are entirely the property of the Soviet Union. In the case of gulfs whose width is greater than 24 miles on the seaward side, only a portion of the water can be regarded as belonging to the USSR.
>
> In some cases, gulfs, inlets and bays whose width on the seaward side is considerably greater than 24 nautical miles are also considered inland waters; these are the so-called "historical" gulfs which for an extended period were known to Russian navigators, and which at the present time are functioning as internal waters of our state. Included among them are the Gulf of Riga, the Cheshsk and Chaun Inlets, Peter the Great Gulf, and the White and Azov Seas.

In the Arctic, the Soviet Union has designated numerous coastal water areas as its "internal waters," based on both geographic and historical criteria. The water areas apparently so claimed, going from west to east, are the following: the White Sea, the Mezen' Inlet, the Cheshsk Inlet, the Pechora Sea, the Pechora Inlet, the Khaypudyr Inlet, the Baydaratsk Inlet, the Ob' Inlet, the Gyda Inlet, the Gulf of Yenisey, the Gulf of Pyasin, the Gulf of Tollya, the Gulf of Faddeya, the Gulf of Khatanga, the Gulf of Anabarsk, the Gulf of Olenek, the Buorkhaya Inlet, the Gulf of Yansk, the Selyakh Inlet, the Ebelyakh Inlet, the Gusinaya Inlet, the Chaun Inlet, the Kolyuchin Inlet, the Gulf of Mechigmensk, the Gulf of Kresta, the Gulf of Anadyr,

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[37] K. G. Tsimanovich, "Gosudarstvennaya Granitsa SSSR" (The State Boundary of the USSR), *Geografiya V Shkole*, No. 6, November-December 1967, p. 13.

the Gulf of Karaga, the Gulf of Kamchatka, the Gulf of Kronotsk, the Penshina Inlet, the Gizhiga Inlet, and the Gulf of Shelikhov.

CLOSED SEAS

In numerous places in the Soviet literature, claims have been made that the Kara, Laptev, and East Siberian Seas are actually "land-locked seas" *(mare clausum)*[38] or that they "are in fact broad, shallow bays" which historically should be considered as part of the internal waters of the Soviet Union.[39] A "closed sea" regime, by definition, "provides for the unrestricted passage of all vessels of the coastal states, but excludes any transit of warships of any non-coastal state ..., and any sea, regardless of expanse, may be rendered closed by the concurrence of all the coastal states which border the sea...."[40] The Soviets define closed seas as "seas which essentially constitute routes leading to the ports and shores of coastal states and are connected to the high seas through a series of straits."[41] This definition agrees with that of U.S. sources.

In view of this definition a case could indeed be made that the Kara, Laptev, and East Siberian Seas are "closed," *if* the Arctic ice cover is defined as a "land-like" entity -- which in many respects it is. If, however, the Central Arctic is considered to be "high seas," then the case for "closed" Soviet Arctic seas is a much weaker one.

The Sea of Okhotsk is another body of water which the Soviets have defined in their literature as a closed sea. A Soviet military jurist, G. S. Gorshkov, is quoted from *Morskoy Sbornik*, the official journal

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[38] T. A. Taracouzio, *Soviets in the Arctic*, The Macmillan Company, New York, 1938, pp. 353-355.

[39] E. A. Korovin, ed., *Mezhdunarodnoye Pravo* (International Law), Moscow, 1951, p. 296; see also J. F. Meade.

[40] J. F. Meade, "The Great Territorial Sea Squabble," *U.S. Naval Institute Proceedings*, Vol. 95, No. 794, April 1969, p. 49.

[41] Justice-Col. A. S. Bakhov (ed.), *Voyenno-Morskoy Mezhdunarodno-Pravovoy Spravochnik* (Military-Naval Handbook on International Law), Ministry of Defense of the USSR, Moscow, 1956, pp. 81-83.

of the Soviet Navy, as follows:[42] "...legal arguments confirm the correctness of fixing the status of the sea of Okhotsk as both a closed and internal sea coming under the international law concept of historical waters."

Another quote by Gorshkov is also taken from the same journal:[43]

> The United States is also giving particular "attention" to the Sea of Okhotsk, an area of great economic and defensive importance to the Soviet Union. This sea penetrates deep into the territory of the U.S.S.R., and its configuration is greatly different from other far eastern seas. No international waters or air lanes pass through or over it; no American territory adjoins it. Nevertheless, U.S. military ships and aircraft have turned up here time after time for intelligence purposes, violating the security of the Soviet state....

D. W. Given, commenting on the Soviet position regarding the Sea of Okhotsk, writes:[44]

> The first step toward establishing the Sea of Okhotsk as a closed sea was taken during the 1951 San Francisco Peace Conference when Soviet Foreign Minister Andrei Gromyko proposed that the straits around the Japanese islands be closed to foreign military navigation and that the Seas of Japan and Okhotsk be declared closed. The U.S. Secretary of State, Dean Acheson, and the other allied representatives refused to consider Gromyko's proposals. Accordingly, the Soviet Union was not a signatory of the peace treaty with Japan.
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> Although Soviet jurists have asserted repeatedly that the Sea of Okhotsk should be regarded as a closed or territorial sea, Moscow has expediently avoided an official declaration. The United States, therefore, has never specifically recognized or denied any Soviet claim over this water. Should an official declaration be made, the United States would be obliged to protest its validity or accept the consequences of inaction.

As the situation stands at present, the Soviet Union has not officially designated the Sea of Okhotsk, nor the Kara, Laptev, and East

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[42] D. W. Given, "The Sea of Okhotsk: USSR's Great Lake?" *U.S. Naval Institute Proceedings*, Vol. 96, No. 811, September 1970, p. 49.

[43] Ibid., p. 48.

[44] Ibid., p. 51.

Siberian Seas in the Arctic Basin as "closed seas." As to what it might do in the future, the Soviet Union may take a position similar to that regarding its "sector" claim.[45]

THE NORTHERN SEA ROUTE

The Soviets have recently put renewed emphasis on the national character of the Northern Sea Route. It is referred to as the "National Northern Sea Route" and identified as an internal shipping lane. P. D. Milovskiy and G. A. Glazunov, writing in the June 1970 issue of *Morskoy Sbornik*, state that:[46]

> ...the path of the Northern Sea Route is situated close to the coast of the Soviet Union. It represents a vital national communication line of the USSR, which has been used and is being used only by Soviet or Soviet-piloted vessels. The route passes, in part, through Soviet territorial waters...and is closed to military ships of foreign nations....It should be added that the Northern Sea Route passes through vast Siberian seas--the Kara, Laptev, East Siberian, and Chukchi Seas which, by their configuration, represent large shallow bays surrounded by the coastlines of the Soviet Union. Their bottoms are part of the continental shelf of the USSR....From Murmansk and Archangelsk to the Chukchi Peninsula extends our national Northern Sea Route. Its exploration, conquest, development and maintenance...is the result not only of collossal expenditures of the Soviet Government's means and labor, but represents also the great efforts expended by the Russian people over a period of centuries....

The authors conclude their article by stating that:

> ...the Northern Sea Route is a Russian national route, in many ways identical to Norway's Indreleia sea route.

This latter point is especially interesting in that it refers to the Norwegian Fisheries Case mentioned earlier in this paper.[47] The 1951 ruling in that case extended Norway's territorial waters beyond the fringe of its outer coastal islands, and designated the area be-

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[45] See Section IV, p. 17.
[46] Op. cit., p. 87.
[47] See p. 6.

tween these islands and the mainland (including the Indreleia shipping lane) as internal waters. It is obvious that the Soviets feel their Northern Sea Route should have the same status, and they will probably continue to stress this in the future.

Appendix A

TERRITORIAL WATERS: U.N. DEFINITION AND INTERNATIONAL STATUS

"Territorial waters," or "territorial sea," is the designation given to a zone of water off the coast of a state, over which the coastal state maintains complete jurisdiction. A zone of territorial waters may vary in width from 3 to 12 or more nautical miles, depending on the national policy of the coastal state.

At present, there is considerable disagreement among coastal nations about the extent of territorial waters. Several full-scale international conferences on this question have been held under the auspices of the United Nations, but the issue has still not been resolved. The primary basis for recognizing any given width of territorial waters as an international norm is contained in the guidelines provided by the International Law Commission of the U.N. General Assembly.[1] The guidelines presented in the International Law Commission's report, however, are ambiguously worded and have been differently interpreted by individual states to support their own national politics and aspirations. These guidelines, contained in Article 3 of the Commission's report, read as follows:

- The Commission recognizes that the international practice is not uniform as regards the delimitation of the territorial sea.
- The Commission considers that international law does not permit an extension of the territorial sea beyond twelve miles.
- The Commission, without taking any decision as to the breadth of the territorial sea up to that limit, notes on the one hand, that many States have fixed a breadth greater than three miles and on the other hand, that many States do not recognize such a breadth when that of their own territorial sea is less.
- The Commission considers that the breadth of the territorial sea should be fixed by international conference.

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[1] *Report of the International Law Commission, General Assembly, Official Records: 11th sess.*, Supplement No. 9 (A/3159), United Nations, New York, 1956.

By stating that "...many states have fixed a breadth greater than three miles...." the Article seems to imply that 3 miles is the conventional width of territorial waters.[2] On the other hand, by stating that "...international law does not permit an extension of the territorial sea beyond twelve miles...," the Article implies that an extension of territorial waters up to 12 n mi is legal.

Today, most nations still adhere to the 3 n mi limit. In recent years, however, more and more states have unilaterally extended their territorial waters, usually to the 12 n mi limit. (There are now over 44 nations claiming a 12 n mi limit, as contrasted to only 6 such nations in 1954.) There are, in addition, many nations which claim territorial waters of varying widths falling between the 3 and 12 n mi limits. Still other states (Chile, Costa Rica, Ecuador, El Salvador, Honduras, Argentina, Uruguay, Panama, Sierra Leone, Brazil, and Peru) have claimed sovereignty over waters up to 200 n mi from their shores. Among the Arctic countries, Canada claims a 12 n mi territorial sea and a 100-mi "pollution prevention zone" north of Latitude 60° N; the United States claims a 3 n mi zone of territorial waters, Norway and Denmark, a 4 n mi zone; Iceland, a 4 n mi zone and after September 1, 1972 an exclusive fishing zone 50 n mi wide; and the Soviet Union, a 12 n mi zone.

In 1958 and again in 1960, special U.N. conferences were held for the purpose of codifying the law of the sea. Although the question of the width of territorial waters was a major issue at both conferences, no international agreement was reached. The conferences did, however, produce four conventions relating to: (1) fisheries; (2) high seas; (3) the continental shelf; and (4) the territorial sea and contiguous zone. The four conventions were signed and have all become effective.

Article 1 of the Convention on the Territorial Sea and Contiguous Zone affirms the existence of territorial waters, but skirts the issue of their extent: "The sovereignty of a state extends beyond the limits of its land territory and internal waters, encompassing also a sea zone lying adjacent to its coast and known as the territorial sea." The "contiguous zone" is defined as a band of water outside, or beyond,

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*Three nautical miles corresponds to one league, a unit of measurement formerly used by mariners.

the territorial sea, in which the coastal state may exercise controls such as those over customs and sanitation. The contiguous zone is measured from the same baseline as the territorial sea and may extend no more than 12 n mi seaward from it. For nations that claim a 12 n mi territorial sea, the contiguous zone coincides with the zone of territorial waters and is absorbed by them. Thus, by definition, a "contiguous zone" exists only for coastal states that claim territorial waters of less than 12 n mi.

The Convention on the Territorial Sea and Contiguous Zone also contains a number of articles dealing with the right of passage through territorial waters:

- Article 14.1 states that "...ships of all states, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea."

- Article 14.2 defines innocent passage as follows: "Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal state."

- Article 16.3: "Subject to the provisions of paragraph 4, the coastal state may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security."

- Article 16.4: "There shall be no suspension of innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign state."

- Article 17: "Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal state in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation."

- Article 23: "If any warship does not comply with the regulations of the coastal state concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal state may require the warship to leave this territorial sea."

Article 2 of the same document (Territorial Sea and Contiguous Zone Convention) states that a coastal nation maintains complete

sovereignty of the air space over its territorial waters and that no "right of innocent passage" exists through the air over such waters. This air law concept has evolved as customary law from the Paris convention of 1919 and was confirmed by the Chicago Convention on International Civil Aviation of 1944.

The Soviets have voiced reservations to Article 23 of the Convention of the Territorial Sea and Contiguous Zone, which permits the removal of warships from territorial waters if they do not obey regulations. The position taken by the Soviet Government is somewhat stronger, as reflected in the following quote from a Russian text:[3]

> A littoral state which exercises sovereignty over territorial waters naturally has the right, in the interests of its own security and defense, completely to close its territorial waters to foreign men-of-war. When a state consents to the passage of foreign ships through its territorial waters, it can make this passage subject to the observance of special regulations.

In an attempt to reach some sort of international compromise on the width of territorial waters, a joint U.S.-Canadian proposal was put forward at the 1960 United Nations Law of the Sea Conference. The proposal called for a 6 n mi territorial sea, with an additional 6 n mi contiguous zone in which the coastal state would have exclusive fishing rights. The proposal narrowly missed getting the two-thirds majority vote required for its adoption. So adamant is the Russian position on the 12 n mi territorial sea limit that, when it appeared that the U.S.-Canadian 6-plus-6 proposal might be adopted by the 1960 Conference, the Soviet Government declared that it would not be bound by it.

The issue of territorial waters is further complicated by national claims to "internal waters" and "historic waters." The Soviet Union has, on occasion, claimed internal-water status for seas along its Arctic coast. This claim seems to be based in part on a "historic waters" argument.

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[3] G. E. Carlisle, "Three Mile Limit: Obsolete Concept?" *U.S. Naval Institute Proceedings*, Vol. 93, No. 768, February 1967.

Designation as "internal waters" refers to all waters landward of the territorial sea baseline which is measured as provided in Article 5 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone. International law gives nations complete sovereignty over their internal waters and "innocent passage" is not permitted through such waters.

"Historic waters" is a concept somewhat harder to define, but it generally involves sovereignty claims based on national and historical use. Historic waters have the same status as internal waters, and foreign vessels do not have the right of "innocent passage" through them. England's Bristol Channel, Canada's Hudson Strait and Hudson Bay, Chesapeake Bay of the United States, and the Soviet Union's White Sea, Gulf of Riga, and Sea of Azov are among the water areas considered to be "historic waters." The U.N. Law of the Sea Conferences discussed the subject of "historic waters" but were unable to reach agreement on criteria.

Partly because of the failure of the numerous attempts to reach international agreement on territorial sea limits and other questions pertaining to coastal waters, most nations have adopted unilateral positions reflecting their own interests. An increasing number of countries, the Soviet Union among them, has declared a 12 n mi extent of territorial waters. It has been estimated that if all countries were to extend their territorial waters to the 12 n mi limit, some 3,000,000 sq mi of ocean would be lost to the regime of the high seas.[4] Furthermore, many strategic straits and channels along continental margins and between archipelago islands would lose their high-seas status and become territorial waters.[5]

The United States has steadfastly adhered to the 3 n mi limit. Arthur H. Dean, head of the U.S. delegation to the Law of the Sea

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[4] *Sovereignty of the Sea*, U.S. Department of State, Bureau of Intelligence and Research, Geographic Bulletin No. 3, April 1965.

[5] Straits that would undergo such a change include the Strait of Gibraltar, the Strait of Dover, the Strait of Hormuz (at entrance to Persian Gulf), entrances to the Gulf of Bothnia and Gulf of Finland, and passages through the chain of the Indonesian islands.

Conference, reiterated the official U.S. position on territorial waters as follows: "...[three miles] is the sole breadth of territorial sea on which there had ever been anything like common agreement," and claims in excess thereof "are not sanctioned by international law," and "conflict with the universally accepted principle of the freedom of the sea....Furthermore, we have made it clear that in our view there is no obligation on the part of states adhering to the 3 mile rule to recognize claims on the part of other states to a greater breadth of territorial sea. And on that we stand."[6] Despite this official position, U.S. officials have in recent years proposed moving toward international acceptance of a 12 n mi maximum limit if such acceptance includes provisions for freedom of navigation through and over international straits.[7]

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[6] G. E. Carlisle, op cit.

[7] J. R. Stevenson, "International Law and the Oceans," *Department of State Bulletin,* March 16, 1970, pp. 339-343.

Appendix B

TERRITORIAL WATERS: SOVIET DEFINITION

HISTORICAL VIEWS

Prior to 1917, Tsarist Russia generally adhered to the 3 n mi territorial sea limit. F. F. Martens, a well known Russian jurist at the turn of the century, defines territorial waters as "that part of the sea which adjoins the territory of a coastal state," and "is considered to be an extension of the land territory of the coastal state, which therefore has full sovereignty over such waters."[1] A number of other Russian jurists and law scholars of the same period also supported this position, i.e., that territorial waters were a legitimate extension of a nation's coastline, and that a nation had the same full jurisdiction over territorial waters as it had over its land territory. Among those expounding this view were V. A. Nezabitovskiy, L. A. Kamarovskiy, and V. A. Ulyanitskiy.[2] Two other Russian scholars, V. Seevers and P. Kazanskiy, writing in 1902, defined territorial waters as having a dual nature.[3] They felt that, in addition to being the sovereign offshore territory of a coastal state, territorial waters were also an integral part of the "open sea" and should be open to innocent passage by foreign vessels.

Following the Bolshevik Revolution, the new Soviet Government declared a 12 n mi territorial sea limit and stressed that the U.S.S.R. would maintain full and unconditional sovereignty over this zone of

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[1] F. F. Martens, *Sovremennoye Mezhdunarodnoye Pravo Tsivilizovanykh Narodov* (Present Day International Law of Civilized Peoples), Vol. 1, 5th ed., St. Petersburg, 1904, pp. 386-387 (tr. Olenicoff).

[2] V. A. Nezabitovskiy, *Sobraniye Sochineniy* (Collected Works), Kiev, 1884; L. A. Kamarovskiy and V. A. Ulyanitskiy, *Mezhdunarodnoye Pravo* (International Law), Moscow, 1908.

[3] V. Seevers, *Glavneyshiye Svedeniya Po Morskomy Mezhdunarodnomy Pravy* (Main Principles of International Sea Law), St. Petersburg, 1902; P. Kazanskiy, *Uchebnik Mezdunarodnogo Prava* (Textbook on International Law), Odessa, 1902.

coastal waters. This latter point is reiterated in the writings of Soviet specialists on international law, among them F. I. Kozhevnikov, A. M. Ladyzhenskiy, T. B. Cherepakhina, V. N. Durdenevskiy, and A. N. Nikolayev.[4]

Professor V. N. Durdenevskiy states that: "Territorial waters (also known as 'territorial sea' or 'coastal waters') are a strip of sea of determined width along the coast of a state and under its sovereignty... Territorial waters are an integral and sovereign part of a coastal states's territory."[5]

T. B. Cherepakhina, in her writing, states essentially the same thing: "...by territorial waters is meant that strip of sea which extends along a nation's coastline and the outer edge of its national or internal waters...with the coastal state having full sovereignty over such territorial waters, since they constitute a seaward extension of that government's territory."[6]

Two other Soviet law specialists, P. P. Orlenko and V. A. Belli, expounded the somewhat different and more international view that territorial waters remain part of the open sea and should not be considered as totally restricted national areas.[7] It is interesting to note that the views of Orlenko and Belli have been criticized, rejected,

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[4]F. I. Kozhevnikov, *Sovetskoye Gosudarstvo I Mezhdunarodnoye Pravo* (The Soviet Government and International Law), Moscow, 1948; A. M. Ladyzhenskiy, "Yuridicheskaya Priroda Territorial'nogo Verkhovenstva" (Jurisdictional Nature of Territorial Sovereignty), *Bulletin of the Moscow State University*, No. 10, Moscow, 1948; T. B. Cherepakhina, *Bor'ba "Dvoukh Lagerey" V Voprose O Mezhdunarodno-Pravovom Rezhime Territorial'nogo Morya* (Battle of the "Two Camps" on the Question of the International Law Regime Governing Territorial Seas), Sverdlovsk, 1950 (tr. Olenicoff); E. A. Korovin, ed., *Mezhdunarodnoye Pravo* (International Law), Moscow, 1951 (tr. Olenicoff), hereinafter referred to as Korovin, *Int. Law*; A. N. Nikolayev, *Problema Territorial'nykh Vod V Mezhdunarodnom Prave* (The Problem of Territorial Waters in International Law), Moscow, 1954.

[5]V. N. Durdenevskiy, in Korovin, *Int. Law*, op. cit., pp. 300-301.

[6]T. B. Cherepakhina, op. cit., p. 4.

[7]P. P. Orlenko, *Voyenno-Morskoye Mezhdunarodnoye Pravo* (Naval International Law), Leningrad, 1948; V. A. Belli, *Voyenno-Morskoy Mezhdunarodnyy Spravochnik* (International Naval Handbook), Leningrad, 1939.

and labeled as "confused" by Soviet party-line jurists, and their writings have been relegated to a second-rate standing.[8]

The Military-Naval Handbook on International Law, issued to all Soviet naval units and border forces, elaborates on the matter of territorial waters as follows:[9]

> The territorial waters of the Soviet Union are understood to be a coastal strip of sea, which comprises an offshore extension of the territorial holdings of the USSR, lies under its sovereignty, and is an integral part of its national territory.
>
> The sovereignty of the USSR extends along the entire depth of its territorial waters, including the bottom and its resources, and also encompasses the air space over these waters.
>
> On the basis of the customary international-law position giving coastal states the right to assert their sovereignty by individually determining the width and regime of their territorial waters, the Soviet Government, through a series of legislative acts, has set up a twelve mile limit and regime of territorial waters along the coasts of its continent and islands....
>
> ...The twelve mile width of the territorial waters of the Soviet Union serves to safeguard its economic needs and the security of its sea borders....

A few paragraphs later, the Handbook provides this rather significant statement on the Soviet position:[10]

> *The sea boundary of Soviet territorial waters constitutes the state border of the Soviet Union at sea.* It is the sacred responsibility of the Military-Naval Fleet of the USSR to provide for the security and defense of this sea border along its entire extent.
>
> An important role in the fulfillment of this task is played by the established regime for the territorial waters of the USSR, which has been set up through a series of special normative acts.

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[8] A. N. Nikolayev, op. cit., p. 13.

[9] Justice-Col. A. S. Bakhov (ed.), *Voyenno-Morskoy Mezhdunarodno-Pravovoy Spravochnik* (Military-Naval Handbook on International Law), Ministry of Defense of the USSR, Moscow, 1956, pp. 81-83.

[10] Ibid., p. 83 (this author's italics).

The "regime" for territorial waters refers to the established regulations governing activities in this zone, such as fishing, radio communications, surveillance, customs and sanitation operations, the passage of vessels, and overflights by aircraft.

The Soviet position on the passage of ships and aircraft through the waters and airspace of the territorial sea zone appears to be the following, based on a survey of the previously referenced Soviet literature.

PASSAGE THROUGH WATERS AND AIRSPACE

The Soviets class foreign vessels into three categories: (1) warships (this designation covers all foreign naval vessels, including fighting ships, troop carriers, surveillance ships, submarines, supply ships, and even rescue ships); (2) commercial ships (which includes merchant freighters, tankers, fishing vessels in transit, and passenger ships); (3) research vessels (which includes ships carrying out meteorological, geophysical, hydrological, acoustical, archeological, and oceanographic investigations, as well as weather ships, satellite-tracking ships, research submersibles, and bottom-coring vessels). The Soviet Government has set up special territorial sea regulations for each of the three categories.

Regulations Pertaining to Warships and Submarines

Vessels in the warship category listed above may not enter Soviet territorial waters unless they request and receive permission beforehand from the Government of the USSR. Requests for permission must be made well ahead of time through diplomatic channels and should state the following information: (1) the number of warships intending to pass through Soviet territorial waters; (2) the name and designation of each warship; (3) the reason why the warship is entering Soviet waters; and, (4) the estimated duration of its stay. Upon entering Soviet territorial waters, a foreign warship must immediately radio Soviet authorities about its presence and inform them of its course. If a foreign warship enters Soviet territorial waters because of

unusual or compelling circumstances beyond its control, such as a storm or a disaster at sea, it must inform Soviet authorities of its presence and proceed directly to the nearest Soviet port which is open to foreign vessels.

The outlined warship regulations also apply to submarines which, the Soviets state, "must remain surfaced while passing through the territorial waters of the USSR."[11] The Soviets further state that a submarine entering their territorial waters while submerged is committing an "unlawful act," and units of the Military-Naval Fleet are instructed to "take all the necessary measures to compel it to surface." If the foreign submarine does not surface when ordered to do so, "the Soviet Military-Naval Fleet units will have no choice but to resort to strongest defensive measures available to them, and the responsibility for this will be borne by those commanding the submarine and their government."[12]

At this point, it would be appropriate to quote from another Soviet source on the subject of pursuit: "The pursuit by our defense forces of foreign vessels, which have violated Soviet territorial waters, may go beyond the twelve mile limit and continue into the open sea. Pursuit is discontinued if and when the vessel in question enters the waters of a foreign state and, in the case of vessels flying a foreign flag, pursuit is unquestionably terminated upon the entry of such vessels into a foreign port."[13]

Regulations Pertaining to Research Vessels

The types of ships falling into this category were listed earlier. As early as 1932, Soviet authorities announced that "the right to perform oceanographic and hydrological investigations in seas adjacent to the USSR, within the 12 mile zone of territorial waters, is granted

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[11] Ibid., p. 85.

[12] Ibid.

[13] Nikolayev, op. cit., pp. 233-234.

only to ships flying the flag of the USSR."[14] Since then, this restriction has been expanded to include all types of scientific and technical research. As it stands now, foreign research vessels can perform investigations in Soviet territorial waters only with the express permission of the Government of the USSR.[15]

Regulations Pertaining to Commercial Ships

This category includes all types of freight-carrying ships, as well as tankers, fishing vessels in transit, and passenger ships. Soviet regulations pertaining to the passage of such vessels through territorial waters are stated thus:

1. Foreign commercial ships may pass through Soviet territorial waters if they are en route to or from an open Soviet port;

2. Foreign commercial ships may also pass through Soviet territorial waters if they are in transit along the shortest route (or a recommended route) between two foreign ports;

3. Foreign commercial ships can avail themselves of Soviet territorial waters if this is necessitated by a storm or disaster at sea, or by other unusual circumstances;

4. While passing through Soviet territorial waters, foreign commercial vessels are subject to surveillance by Soviet naval and border units;

5. Soviet naval vessels have the right to stop and search foreign commercial ships passing through Soviet territorial waters, and the foreign ship can continue its voyage only after the investigating Soviet ship has granted it permission;

6. Foreign commercial vessels may not load or unload goods or passengers in Soviet territorial waters without the knowledge and permission of Soviet authorities;

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[14] *Tsirkulyar Gidrograficheskogo Upravleniya* (Circular of the Hydrographic Office), No. 85, 16 March 1932.

[15] Nikolayev, op. cit., p. 218; Bakhov, op. cit., p. 89.

7. Foreign commercial ships passing through Soviet territorial waters should follow recommended routes and must not enter (a) internal waters; (b) restricted areas closed to navigation; (c) restricted defense zones or so-called "fortified zones."

Generally speaking, the position taken by the Soviet Government in regard to foreign commercial vessels is in keeping with international laws permitting "innocent passage." Commercial ships undertaking innocent passage through Soviet territorial waters are, however, subject to numerous and stringent regulations.

Regulations Pertaining to Aircraft

The Soviet Government claims full sovereignty over the airspace of its territorial waters and does not permit "innocent passage" by foreign military or civil aircraft, a position in keeping with international laws pertaining to airspace over territorial waters. Instructions issued to Soviet air units on border-defense duty are explicit: "When foreign aircraft violate the airspace of the USSR [which by definition includes the airspace over territorial waters], pilots are instructed to intercept such aircraft and force their landing at a Soviet airfield. In the event of resistance, pilots are instructed to open fire."[16]

Another Soviet statement declares: "Pilots engaged in espionage or surveillance activity in Soviet airspace are subject to arrest, trial, conviction, and even the most severe degree of punishment, in accordance with our laws."[17]

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[16] Bakhov, op. cit., p. 93.

[17] Declaration of the Delegate of the USSR to the Political Committee of the United Nations on December 19, 1951, reported in *Pravda*, December 22, 1951.

THE SOVIET STAND ON TERRITORIAL WATERS

To summarize the Soviet position on territorial waters, a concise statement from an authoritative Soviet source is presented below.[18]

> An analysis of Soviet legislative acts, international agreements, diplomatic documents, and statements of USSR representatives to international bodies on the question of territorial waters shows that the Soviet point of view on this subject consists, first of all, of the recognition of the obvious fact that, due to the different historical economic, political, and military-strategic conditions characterizing each individual state, the width of territorial waters is different for different states. In view of this fact, there can be no general norms set up by international law establishing one common width for territorial waters. In the absence of special international agreements, the determination of the width of territorial waters is made by the states themselves. In determining the width of territorial waters, the legislative organs of the states must judiciously take into account both their own national interests, and the interests of international navigation.
>
> The width of Soviet territorial waters was determined with due regard to the historical, economic, political, and military-strategic conditions characterizing the USSR--a great sea power and the world's leading socialist state. This width equals 12 nautical miles, measured from the mean low-water line of both continent and islands. This width of Soviet territorial waters is, at the present time, in keeping with the economic and security interests of the USSR. At the same time, it in no way impedes the use of international sea routes. Soviet territorial waters comprise an offshore extension of the territory of the USSR, the sovereignty of the USSR extends over them, and they constitute a State socialist possession of the USSR. Soviet jurisdiction prevails within the limits of the territorial waters of the USSR; and, the regulation of the regime of the territorial waters is performed exclusively by organs of the USSR. The Soviet Government rigorously guards its right of sovereignty in its territorial waters and will decisively block any and all attempts on the part of imperialist states to violate the regime of these waters. At the same time, the Soviet Government will respect the sovereign rights of other states in their territorial waters.

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[18] B. M. Klimenko, *Pravo Prokhoda Cherez Inostrannuyu Territoriyu* (The Right of Passage Through Foreign Territory), Foreign Affairs Publishing House, Moscow, 1967 (tr. Olenicoff).

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