

Capítulo D 7: FRONTERAS MARÍTIMAS Y EL CASO SINGULAR DEL ÁRTICO

LÍNEAS GENERALES:

AEBR Opinion and Proposals on Maritime Cooperation

within the framework of the European Commission Proposal for a *Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund* - COM(2004)492 and for a *Regulation of the European Parliament and of the Council on the European Regional Development Fund* - COM(2004)495.

Adopted by the AEBR Executive Committee on the occasion of the Executive Committee meeting in Gorizia on 4 March 2005

I. Situation at the outset

The request that all maritime areas be included in cross-border cooperation was already voiced on several occasions after Interreg I and Interreg II. The reasons cited were as follows:

- Considerably more money is available under Interreg A than for Interregional and transnational cooperation;
- the solid reputation of Interreg A.

According to sub-section 2.3 of the Explanatory Memorandum on the general provisions of the regulation, all regions along internal land borders, certain regions along external land borders and certain coastal regions in the enlarged EU should be included in cross-border cooperation within the framework of EU programmes.

The draft regulation takes account of the special role of external borders and the diversity of forms of maritime cooperation, which, depending on the exact type or level of intensity may take the form of either cross-border, Interregional or transnational cooperation.

Chapter III, Article 7 of the regulation defines internal community borders in greater detail. The 150-km arrangement affords maritime border regions more possibilities for cooperation.

The remarks regarding transnational cooperation in Article 6 sub-section 2 of the Proposal for a Regulation on the European Regional Development Fund stress the possibility of bilateral cooperation between maritime regions.

The EU's New Neighbourhood Instrument also makes provision for cross-border maritime cooperation along external borders, special maritime cooperation in sea basins and participation by third countries not eligible for support, as well as for the availability of substantial funding.

II. Evaluation results for Interreg II and III

The results of the evaluation show that maritime border regions that are very far apart tend to act in parallel rather than across borders and that most infrastructure is generally the result of independent projects. This means that such projects could also have been undertaken within the framework of national mainstream programmes. On the other hand, a very high proportion of actions undertaken by these same regions involve Interregional cooperation.

Conclusions from the evaluation show that the absence of cross-border cooperation in the past and the lack of both a cross-border strategy and an efficient cross-border structure is hampering attempts to develop real cross-border action and will probably lead to isolated cases of cooperation along Interregional lines.

This means that only a limited number of maritime border areas are suitable for cross-border cooperation. The majority of cross-border areas can gain more from Interregional or transnational forms of cooperation.

III. The distinction between cross-border, Interregional and transnational cooperation and how it also applies to maritime borders

The European Commission has clearly defined cross-border, Interregional and transnational cooperation. Cross-border cooperation involves cooperation between directly adjacent areas along a border. In practice this means intensive cooperation on a daily basis between all actors on either side of the border regarding all issues and in all sectors.

It has become evident that this type of intensive cooperation is only possible for a few forms of maritime cooperation. Key elements here include short distances between the shores of border regions, good communications, recently completed fixed connections (such as tunnels or bridges) that to some extent turn the maritime border into a land border, strong relations in the past and similarities between cultures.

Support for coastal regions within the framework of cross-border cooperation should be limited to approximately 150 km, as proposed by the Commission. A certain degree of flexibility can be shown in individual cases. Considerably greater distances cannot be included because actual cross-border cooperation is no longer guaranteed.

IV. Overall consequences for cross-border cooperation - specific consequences for land borders

If all or the majority of maritime regions are integrated into cross-border cooperation, coastal regions in Italy, Spain, Sweden, Germany, the United Kingdom, Ireland and other Member States would also be included. This would entail either the funds for cooperation across land borders being significantly reduced and the funding for 'old internal borders' being generally under threat as a result of the need to modify the allocation of resources, or that a high proportion of funds earmarked for transnational cooperation would have to be allocated to cross-border cooperation from 2007, for bilateral maritime cooperation over greater distances is due to be incorporated into transnational cooperation.

The inclusion of all or most maritime border regions in cross-border cooperation does not contribute any added value, since the maritime programmes in question do not meet the conditions for cross-border cooperation. Due to the major distances between them, many regions are unable to engage in anywhere near as intensive cross-border cooperation (see the evaluation).

The inclusion of all or most maritime border regions in cross-border cooperation will inevitably produce negative results in an evaluation (for example because the majority of resources will not be used for cross-border cooperation and the projects could just as easily have been implemented under national mainstream programmes). In the long run, this would damage cross-border cooperation in general and, as a result, hinder progress towards the new political objective of 'territorial cooperation'.

If territorial cooperation, which was only recently deemed a priority by the EU, is to be sustained, it is absolutely necessary to implement convincing, high-quality programmes and projects for cross-border cooperation.

V. Good opportunities and adequate resources for maritime cooperation

Coastal regions should be able to cooperate with neighbouring regions on the other side of the border according to their needs and opportunities, in other words by engaging in either cross-border, Interregional or transnational cooperation. Coastal regions could engage in very meaningful and useful Interregional or transnational cooperation across greater distances within selected sectors.

This would ensure that future evaluations would find that the implemented programmes and actions were of a correspondingly high quality.

For the same reason we also need the following criteria for distinguishing between cross-border, Interregional and transnational maritime cooperation:

- Distances;
- differentiation of content (integrated multiannual programmes for cross-border maritime cooperation and sectoral and/or thematic programmes for bilateral transnational maritime cooperation).

Moreover, this would tally with the situation applying to land borders, where border regions work together in these three different ways depending on the distances involved and the level of intensity of their cooperation.

There are sufficient financial resources for maritime cooperation available in:

- Territorial cooperation:
 - on a cross-border basis for certain coastal regions;
 - on a transnational basis for bilateral cooperation over greater distances.
- The European Neighbourhood and Partnership Instrument:
 - For cross-border maritime cooperation at the NUTS III level;
 - for maritime cooperation at the NUTS II level in sea basins with external borders;
 - and in some instances for cooperation with third countries not eligible for funding (e.g. outermost regions and/or islands and such like).
- The Instrument for Pre-Accession Assistance (IPA):
 - For regional and cross-border cooperation, also maritime cooperation;
 - where necessary for transnational and Interregional cooperation, also maritime cooperation.

International maritime boundaries & U.S. Limits in the Seas

ABS List, 10.12.2014 10:05 (abs.newsletter-bounces@lists.uef.fi). Sent on behalf of Anne-Laure AMILHAT SZARY, Professeure Institut de Géographie Alpine, Université Joseph Fourier CNRS : Laboratoire PACTE-Territoires, UMR 5194, Membre de l'Institut Universitaire de France,
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As You may agree, it's different to study concluded international maritime boundary agreements and rendered arbitral awards [and we assume - ICJ & ITLOS judgments] referred to by Robert Smith and it's different to study China's claims publicized in Robert's preceding email, as reenclosed herewith. Only Americans, especially Obama Administration, could be as judicially uncivilized as to officially analyze issues and give answers to the questions being sub judice before international Court, in this case UNCLOS Annex VII Arbitral Tribunal. We believe that its President Thomas A. Mensah should - of course in consultation with his distinguished Arbitrators - prohibit any use by this Tribunal of the latest No.43 publicized by Robert in the course of the pending Philippines v. (Non-Appearing) China South China Sea Arbitration at: http://www.pca-cpa.org/showpage.asp?pag_id=1529 , so as to allow the Tribunal to form its own view on the considered issues, independently from: **China: Maritime Claims in the South China Sea, Limits in the Seas** No.143 (U.S. State Department - 5 December 2014) at: <http://www.state.gov/documents/organization/234936.pdf> via <http://www.state.gov/e/oes/ocns/opa/c16065.htm> [it's more than sufficient that Philippines team already comprises the best U.S. international lawyers Oxman & Reichler et al. as its Counsel].

Procedurally, as noted before, we agree with China's position on this highly politicized Arbitration. However, we expect that the Annex VII South China Sea Tribunal will not resist upholding its Jurisdiction and will adjudge certain points of substance, and we therefore hope that the Tribunal will in any event expressis verbis and unanimously state that any its holdings will be "without any prejudice whatsoever" to the future resolution of the issues of sovereignty and maritime delimitation in the South China Sea over which the Tribunal has no jurisdiction.

The latest confirmation of 7 December 2014 of China's non-appearance in Annex VII proceedings is listed for your convenience below. China's Position Paper and Statements are kind of reply to the Annex VII Tribunal's deadline for Non-Appearing China to respond to Philippines Memorial by 15 December 2014. Also added below is list of direct links to these Statements as they appear on the Beijing MFA homepage form which they will be soon gone http://www.fmprc.gov.cn/mfa_eng/

We also take this opportunity to mention that another UNCLOS Annex VII Arbitral Tribunal under Presidency of H.E. Judge Thomas A. Mensah [ex-ITLOS President, Ghana] just rendered Netherlands v. (Non-Appearing) Russia Arctic Sunrise (Jurisdiction) Award of 26 November 2014 and PCA PR of 5 December 2014 at:

http://www.pca-cpa.org/showpage.asp?pag_id=1556

http://www.pca-cpa.org/showpage.asp?pag_id=363

http://www.pca-cpa.org/shownews.asp?nws_id=461&pag_id=1261&ac=view

and A UN Convention on the Law of the Sea tribunal has accepted jurisdiction over a claim brought by the Netherlands against Russia over the detention of Greenpeace activists and their ship in the Arctic, following a declaration from Russia that it would not participate of 5 December 2014 at:

<http://globalarbitrationreview.com/news/article/33228/arctic-sunrise-case-go-ahead/>

The Kingdom of the Netherlands files Memorial and Supplementary Pleadings; the Russian Federation does not express intent to file Counter-Memorial; Arbitral Tribunal issues Procedural Order No. 3 (Greenpeace International's Request to File an Amicus Curiae Submission) of 7 November 2014 at:

http://www.pca-cpa.org/shownews.asp?ac=view&nws_id=452&pag_id=1261

& http://www.pca-cpa.org/showpage.asp?pag_id=1556

and ITLOS Case No.22 at: <http://www.itlos.org/index.php?id=264> and 2013 Arctic Sunrise (Provisional Measures) Order written by Guilfoyle with his PhD student Miles, in: 108 AJIL 271-287 (2014 No.2) and Arctic Sunrise Departed Russia for Amsterdam of 1 August 2014 at:

<http://itar-tass.com/en/world/735129>

& <http://sputniknews.com/russia/20140801/191563006/Greenpeace-Icebreaker-Arctic-Sunrise-Departs-Russia-for.html>

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CLCS Part One: <http://booksandjournals.brillonline.com/content/journals/15718085/28/2>

CLCS Part Two: <http://booksandjournals.brillonline.com/content/journals/15718085/28/4>

The University of Miami School of Law's International Arbitration Institute is offering a Course on The Fundamentals of International Arbitration on January 7-11, 2015 (26.0 CLE* credits). This interactive specialized course will be led by Professor [Jan Paulsson](#) and Professors [Keith S. Rosenn](#) and [John Rooney](#). The best participant in the mock arbitration portion of the course will receive the "Jan Paulsson Arbitration Advocacy Award" at: <http://www.law.miami.edu/international-graduate-law-programs/international-arbitration/international-arbitration-institute-fundamentals.php>

& <https://www.linkedin.com/groups/Course-on-Fundamentals-International-Arbitration-734647.S.5940283293395099651>

& <https://www.linkedin.com/groups?viewMemberFeed=&gid=734647&memberID=67336084>

For further information and special requirements please contact Kristina Klykova at 786-942-8252 or via email: kklykova@law.miami.edu

UNCLOS ANNEX VII SOUTH CHINA SEA ARBITRATION:

http://www.pca-cpa.org/shownews.asp?nws_id=423&pag_id=1261&ac=view

http://www.pca-cpa.org/shownews.asp?nws_id=423&pag_id=1261&ac=view

UNCLOS Annex VII Philippines v. China Procedural Order No.2 of 3 June 2014, fixing 15 December 2014 as the date for (sofar non-appearing) China to submit its Counter-Memorial responding to the Philippines' Memorial at: http://www.pca-cpa.org/showpage.asp?pag_id=1529 & [Virhe. Hyperlinkin viittaus ei kelpaa.](#) & [Virhe. Hyperlinkin viittaus ei kelpaa.](#) and China Reaffirms Its Refusal to Accept Annex VII Claim of the (U.S.-led) Philippines of 4 June 2014 at: [Virhe. Hyperlinkin viittaus ei kelpaa.](#) and Beijing MFA at: http://www.fmprc.gov.cn/mfa_eng/ & <http://www.chinadaily.com.cn/world/2014southchinaseadispute/>

China's Position Paper and Statements on Annex VII South China Sea Arbitration of 7 December 2014, including at:

http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217147.shtml

& http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217148.shtml

& http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217149.shtml

& http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217150.shtml

via: http://www.fmprc.gov.cn/mfa_eng/

& http://www.pca-cpa.org/showpage.asp?pag_id=1529 and China Denounces Philippine Pressure over Arbitration at: http://www.omaha.com/news/world/china-slams-philippines-over-south-china-sea-case/article_dbfcec00-79a2-5cb0-955b-9a7f61629067.html & <http://economictimes.indiatimes.com/news/international/world-news/china-rejects-un-mediation-to-resolve-south-china-sea-dispute/articleshow/45403203.cms> & <http://globalnation.inquirer.net/115183/china-slams-ph-over-south-china-sea-case/> & <http://globalnation.inquirer.net/115232/china-rejects-arbitration-anew/> & <http://news.yahoo.com/china-denounces-philippine-pressure-over-sea-dispute-arbitration-043822768.html> &

<http://news.yahoo.com/china-denounces-philippine-pressure-over-sea-dispute-arbitration-043822768.html>

& <http://www.bworldonline.com/content.php?section=Nation&title=Beijing-scores-Manila-for-pressure-in-dispute&id=99201> & <http://www.abs-cbnnews.com/nation/12/07/14/china-denounces-ph-pressure-over-sea-dispute>

via: <http://news.search.yahoo.com/search/news?p=Permanent+Court+Arbitration>

China: Maritime Claims in the South China Sea, *Limits in the Seas* No.143 (U.S. State Department - 5 December 2014) - according to Sam Bateman sbateman@UOW.EDU.AU , "It's a pity that it did not address the implications of China's lack of protest of maritime boundaries agreed by other littoral states that intrude well inside the 9-dashed line e.g. the continental shelf boundaries between Indonesia and Malaysia and Indonesia and Vietnam, or of the extensive oil and gas developments inside the line by Malaysia, Brunei, Indonesia and the Philippines. And hopefully 'work in progress' includes an analysis of the claims in the South China Sea by the other major claimant- Vietnam" at: <http://www.state.gov/documents/organization/234936.pdf> via: <http://www.state.gov/e/oes/ocns/opa/c16065.htm> <http://globalnation.inquirer.net/files/2014/08/Wu-Shicun.jpg>

National Institute for South China Sea Studies presidnet Wu Shicun: We used to enjoy a good relationship Photo from <http://www.nanhai.org.cn>

Wu Shicun, president of top state think tank National Institute for South China Sea Studies [South China Sea Institute's President Dr. Wu wsc9961@hotmail.com], is hopeful that relations between China and the Philippines will be better after the Aquino administration. Wu also says China is unlikely to accept the decision—expected “around January to March in 2016”—of the International Tribunal for the Law of the Sea (Itlos) on the territorial dispute between Manila and Beijing, regardless of whether it is favorable or not of 29 September 2014 at: <http://globalnation.inquirer.net/111784/china-expert-expects-better-ties-after-2016> & http://news.search.yahoo.com/search/news?p=China_Sea

Russia has signed a series of deals with China to help weather Western sanctions over the Ukraine crisis of 13 October 2014 at: <http://www.euronews.com/2014/10/13/russia-signs-deals-with-china-to-offset-ukraine-sanctions/> & <http://en.itar-tass.com/russia/754209> and FM Lavrov's Statement on USA-Russia of 13 October 2014 at: <http://en.itar-tass.com/russia/753997> and USA-Russia of 11 November 2014 at <http://sputniknews.com/us/20141111/1014630999.html>

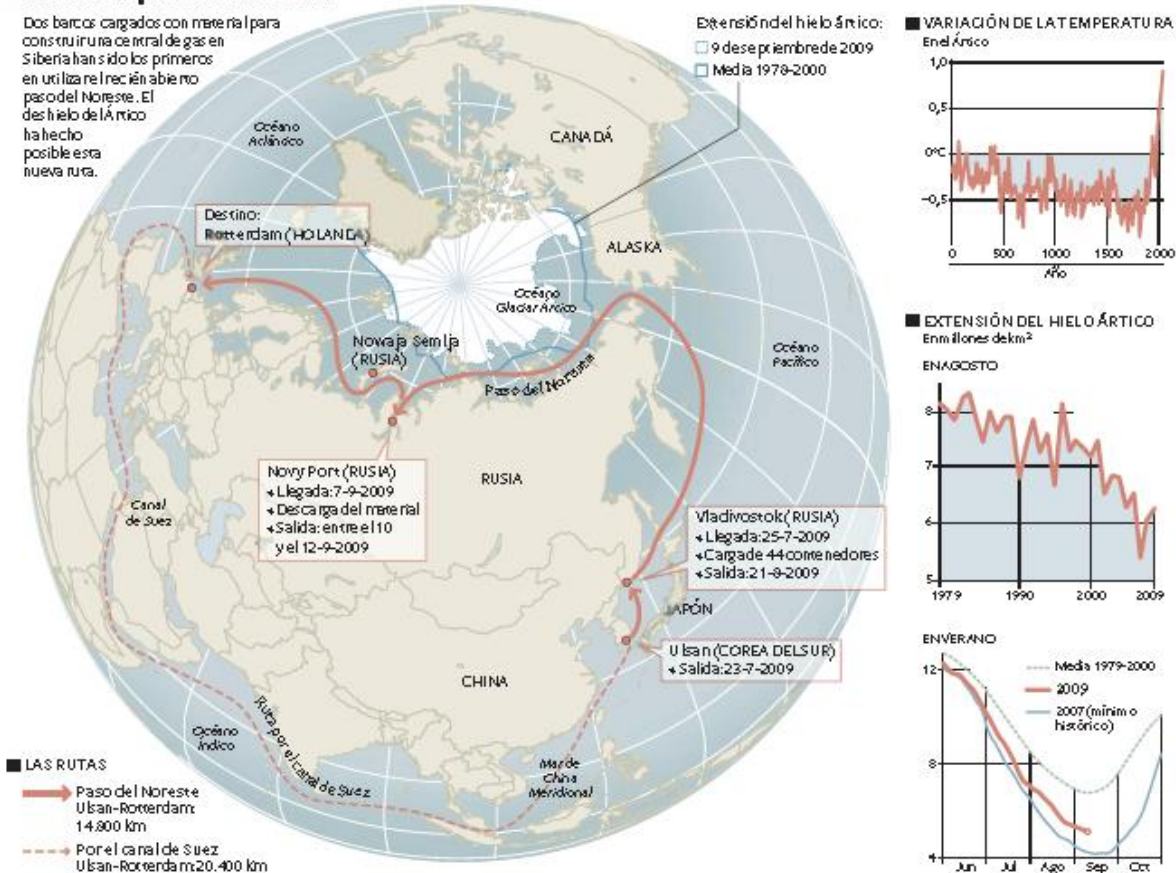
China's Island Factory in the South China Sea at: <http://www.bbc.com/news/magazine-29107792> and China Building New Island of 21 November 2014 at: <http://www.maritime-executive.com/article/China-Building-South-China-Sea-Island-2014-11-21>

Philippines: Archipelagic Claims and Boundaries, *Limits in the Seas* No.142 (U.S. Department of State, 15 September 2014 at: <http://www.state.gov/documents/organization/231914.pdf>) and Indonesia: Archipelagic Claims and Boundaries, *Limits in the Seas* No.141 (U.S. Department of State, 15 September 2014 at: <http://www.state.gov/documents/organization/231912.pdf>) via: <http://www.state.gov/e/oes/ocns/opa/c16065.htm>

El Ártico

Abierto el paso del Noreste

Dos barcos cargados con material para construir una central de gas en Siberia han sido los primeros en utilizar el recién abierto paso del Noreste. El deshielo del Ártico ha hecho posible esta nueva ruta.



Fuente: NERC, University Corporation for Atmospheric Research, J. Edgar Group y elaboración propia.

EL PAÍS

Fuente: *Dos buques abren una nueva ruta entre Europa y Asia por el Ártico*, El País, 12 de septiembre de 2009, Sociedad, p. 30

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