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## Scientific activities on Spitsbergen in the light of the international legal status of the archipelago

**ABSTRACT:** In this article, Svalbard was presented as place and object of intensive scientific research, carried on under the rule of the 1920 Spitsbergen Treaty, which has transformed the archipelago into a unique political and legal entity, having no counterpart anywhere else in the world. Scientific activities in Svalbard are carried out within an uncommon legal framework, shaped by a body of instruments both of international law and domestic laws of Norway, as well as other countries concerned, while the Spitsbergen Treaty, in despite of its advanced age of 75 years, still remains a workable international instrument, fundamental to the maintenance of law and order within the whole Arctic region. In 1995 two important for Svalbard anniversaries were noted: on 9 February, 75 years of the signing of the Spitsbegren Treaty and on 14 August, 70 years of the Norwegian rule over the archipelago.

**Key words:** Arctic, Spitsbergen, scientific cooperation, law and politics.

### Introduction

The recent missile incident in the Arctic<sup>1</sup> and the Russian-Norwegian controversy accompanying it, have turned for a while the attention of world public opinion to the status of Spitsbergen (Svalbard)<sup>2</sup> and the conditions of scientific investigations in the archipelago.

<sup>1</sup> The Times, 26 January, 1995, p. 12. On 25 January 1995 the world public opinion was alarmed by the news that a Norwegian missile has violated the airspace of Russia, putting its defence on alert. According to subsequent explanations, that alarm was caused by a research rocket launched from Norway in the direction of Spitsbergen, as part of an international scientific project, aimed at the investigations of the northern lights (*aurora borealis*).

<sup>2</sup> Following the practice of international and Norwegian official documents concerning the archipelago, the names Spitsbergen (English) and Svalbard (Norwegian) are used in this article

Unlike Antarctica, the Arctic does not have a general treaty dealing with the region as a whole. That fact, arising from its different historic past, geographical and political realities, makes the definition of the status of the Arctic under international law and the determination there of national sovereignty and jurisdiction an extremely difficult task. The legal rules defining its status, scattered throughout the numerous bilateral and multilateral instruments, dealing either with parts of the region or with its selected aspects, are often ambiguous, full of gaps, or even contradictory, leaving room to doubts and opening the door to disputes, unfounded claims and controversial interpretations.

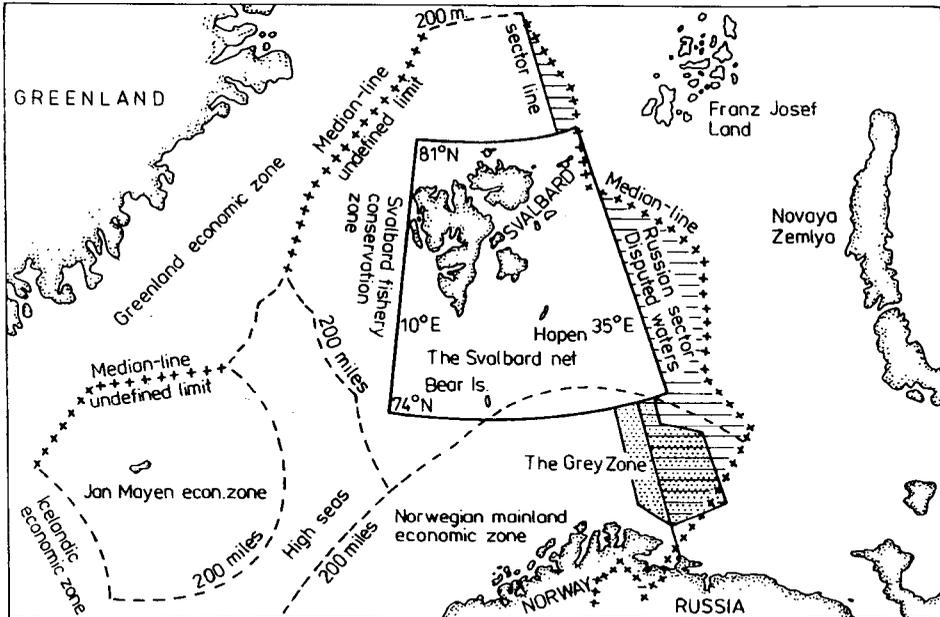


Fig. 1. Map of Svalbard Archipelago and its surrounding ocean areas.

In that jungle of laws at least two international instruments and one legal theory may offer some guidance in search for political, legal and scientific solutions. They are: (1) the 1920 Spitsbergen Treaty, offering an international legal framework for only a limited part of the Arctic, situated north of Norway<sup>3</sup>,

alternately. The name Svalbard, deriving from old Icelandic annals, means "the land with the cold shores". Grumant, the traditional historic Russian name of the islands is now out of use. Svalbard, a province of Norway is a group of large islands, often collectively known by the name of the largest island, Spitsbergen.

<sup>3</sup> Treaty Concerning Spitsbergen, Paris 9.II.1920 in 2 LNTS./8. According to Art. 1, the Archipelago of Spitsbergen is comprising, with Bear Island (Bjørnøya), all the islands situated between 10° and 35° E and between 74° and 81° N (called hereinafter Spitsbergen Treaty area). The archipelago comprises a little under 63 000 km<sup>2</sup>, which is roughly the size of Denmark. Pharand D. 1984. The legal régime of the Arctic: some outstanding issues. *In: International Journal*, vol. XXXIX, pp. 742–799.

(2) the 1982 United Nations Law of the Sea Convention (called hereinafter LOS) and (3) the polar sector theory. In this article we shall be concerned mainly with the Spitsbergen Treaty, with frequent references to LOS rules, since most of the Arctic is covered by the ocean on which the archipelago of our interest is situated. We also shall refer to the domestic laws of Norway, since the 1920 Paris Treaty has accorded to that country "the full and absolute sovereignty (...) over the Archipelago of Spitsbergen" (Art. 1), subject to the stipulations of that Treaty.

### From *terra nullius* to Paris Treaty

Prior to the discovery of coal on the islands at the end of nineteenth century, little interest was expressed in the ownership of the Spitsbergen Archipelago. Although the legal status of Svalbard has been discussed ever since the 1870s, until 1920 the islands were considered *terra nullius*, or belonging to no one, thus being subject of possible acquisition. Despite diverse interest in, and claims to, the islands by British, Dutch, Norwegians, Swedes, Danes, Russians and Americans, the question of their sovereignty remained long unsolved. Norway initiated a conference on the matter in Christiania (Oslo) in 1910, which was followed by others in 1912 and 1914, all without result. In 1919 F.H.H. Wedel Jarlsberg persuaded the Allied Supreme Council to grant Norway sovereignty over Spitsbergen. This was put into effect by the **Treaty of Spitsbergen** signed in Paris on 9.II.1920. Norway, then a neutral country, has officially accepted Spitsbergen and took formal possession of the archipelago on 14.VIII.1925, while Germany and Russia, both showing mining interest in the islands, were debarred from the Paris Peace Conference<sup>4</sup>. In 1944, Norway's sovereignty over the archipelago was questioned when the Soviet Government unsuccessfully sought a joint Norwegian-Soviet administration and total cession of Bear Island to the Soviet Union. Today, it is the long-standing Russian presence in the archipelago, dating from the early years of this century, and the fact that Norway is the sovereign power, combined with the obvious strategic, economic

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<sup>4</sup> Original signatories of the 1920 Spitsbergen Treaty were Australia, Canada, Denmark, France, Great Britain, India, Italy, Japan, New Zealand, Norway, South Africa, Sweden, the Netherlands, and United States. Later adhered the Treaty Afghanistan, Albania, Argentina, Austria, Belgium, Bulgaria, Chile, China, Czechoslovakia, Dominican Republic, Egypt, Estonia, Finland, Germany, Greece, Hedjaz, Hungary, Monaco, Poland, Portugal, Romania, Spain, Switzerland, U.S.S.R. (now Russia), Venezuela and Yugoslavia. On 12.II.1920 the Government of the Russian Federal Soviet Socialist Republic lodged a formal protest against its debarring from the Paris Conference and "the arbitrary transfer of the virtually neutral archipelago under the rule of a single state". Taking, however, into consideration its special interest in Svalbard and the privileged position reserved for Russia in the Spitsbergen Treaty, the Soviets adhered to it later on. According to the Decree of the Presidium of the Central Executive Committee of 15.IV.1926 establishing the Soviet arctic sector, its borders were set between 32°04'35" E and 168°49'30" W with an apex at the North Pole. That claim excluded the eastern islands of the Svalbard Archipelago between 32° and 35° E recognized as foreign land within the sector.

and scientific factors, that make Svalbard the scene of international significance, on which diverse, often conflicting national interests are criss-crossing.

The Spitsbergen Treaty has created an entity unusual in political, legal and scientific terms. But even more unusual is the international instrument itself that has established it. The Treaty, functioning without revision for the last 75 years — amazingly long to diplomatic standards — survived the many historic upheavals, military operations, fundamental political and economic changes. It still remains a workable and useful international instrument, serving well the peace and stabilization in the Arctic, even if from the point of view of international law, it is often difficult to construe that old document in terms of new conditions and to impose modern phenomena on its outdated text, formulated when the contemporary concepts were altogether irrelevant or unknown and derive therefrom some idea of modern rights for different, sometimes entirely new states.

### Scientific activities under the Spitsbergen Treaty regime

Svalbard, as a significant part of the large arctic "natural laboratory" occupies a special position in world polar science. A number of fascinating physical and natural phenomena become there apparent, which in few instances have similar counterparts in other places on our planet. The archipelago has a rich land and sea fauna and flora that has adapted itself to the harsh polar conditions. Rarely is ice and snow in all its forms as wider-spread and diverse as on Svalbard, which offers excellent opportunities to glaciological, geological and meteorological investigations. All that makes Svalbard an ideal place and object for scientific research.

**Svalbard as place and object of scientific research.** Svalbard is one of the most thoroughly researched and most easily accessible compared with other high Arctic areas. Scientific investigation started there as long ago as 1827, with the first Norwegian expedition and was continued throughout the nineteenth and twentieth centuries also by other nations. At the turn of centuries became Svalbard the departure point for numerous expeditions to the North Pole and during the two International Polar Years (1882 and 1932) and the International Geophysical Year (1957–8) the site of intensified multinational and multidisciplinary scientific investigations.

After the extension of the Norwegian sovereignty, the scientific research on Svalbard was institutionalized in result of the establishment in 1928 of the Institute for Investigation of Svalbard and the Polar Seas which in 1948 was transformed into the Norwegian Polar Institute (Norsk Polarinstitutt), with the task to organize regular and permanent research work there in close co-

operation with scientists from other nations. An important step towards further institutionalization and internationalization of research on Svalbard, was the foundation in 1990 of a non-governmental International Arctic Science Committee (IASC), seated in Oslo, the capital of Norway<sup>5</sup>.

Svalbard is both a place and an object of large-scale scientific research, as well as international cooperation.

As place of scientific activities, it must be approached spatially and three-dimensionally, because all research there, is taking place in the three basic territorial spheres: land, sea and airspace, with casual extension to contiguous outer space. Accordingly, the rules of relevant branches of law, like the law of the sea, air law, space law *etc.*, are applicable there directly or indirectly also to scientific activities. Finally, it is important to define *the territorial scope* of scientific activities carried on within the limits laid-out by Art. 1 of the Spitsbergen Treaty<sup>6</sup>.

As object of scientific research, Svalbard offers superb opportunities to multi- and interdisciplinary studies in various branches of sciences. The proximity to the North Pole, its central position in the Arctic, relatively easy accessibility and relatively mild climatic conditions, made Svalbard a favorite place and object of extensive and comprehensive studies in polar sciences carried on by representatives of many nations<sup>7</sup>. And that defines *the substantial scope* of Svalbard's polar research.

**The political and legal premises of scientific activities on Svalbard.** Scientific activities on Svalbard are carried on in an uncommon political and legal environment, formed by the status of the archipelago, defined both in the sphere of international and internal laws. The parties to the 1920 Paris Treaty agreed to recognize Norway's full and absolute sovereignty over Spitsbergen subject to the stipulations of that Treaty. It means that Norway may determine the form of local government and legislate for the Archipelago independently from other states, subject only limitations explicitly laid down in the 1920 Treaty. Accordingly, the Norwegian authorities, after the extension in 1925 of their sovereignty on Spitsbergen and declaration that the archipelago forms a province and part of the Kingdom of Norway under the historic name Svalbard, began to establish there an adequate legal regime for the exercise of their rights and jurisdiction over that portion of the realm.

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<sup>5</sup> See: Machowski J. 1993, IASC as legal framework of international scientific cooperation in the Arctic. *In: Polish Polar Research*; 14(2): 177–207.

<sup>6</sup> See note 3.

<sup>7</sup> In recent years the following nations have engaged in research on Svalbard; Belgium, Finland, Germany, France, Japan, the Netherlands, Poland, Great Britain, Switzerland, Sweden, United States, Russia and Norway. The Norwegian part of total research in Svalbard has been reduced from 45% in 1970 to 22% in 1985, but has risen again in 1994 to 30%.

As the first step in this direction, on 17.VII.1925 an Act relating to Svalbard was promulgated<sup>8</sup>. According to its § 2, Norwegian civil and penal law and the legislation relating to the administration of justice apply to Svalbard, unless the contrary has been provided. In the same paragraph a general rule was adopted, providing that other Norwegian law does not apply to Svalbard unless the contrary is specifically stated in the law itself. In subsequent paragraphs 3 and 4 of the Act, the Norwegian statutes and regulations were listed, which might be applicable to Svalbard after King's necessary action, taken with regard for the local conditions. From that extensive list of issues, conspicuously absent are the problems related to science and research. In the remaining chapters of the Svalbard Act, matters of the government and administration of justice, rules concerning personal legal relations and rules relating to property in the archipelago were laid down.

The Act was shortly followed by The Mining Code for Svalbard<sup>9</sup>, promulgated on 7.VIII.1925 and regulating the conditions of exploitation natural deposits of coal, mineral oils and other minerals and rocks within the entire archipelago.

Lack of a separate and uniform body of laws for Svalbard and the scattering of the statutes, regulations and rules that apply to the archipelago throughout the general laws of Norway, make for foreign scientific parties difficult strictly to observe the local laws and regulations, as provided in Art. 3 of the Spitsbergen Treaty. These difficulties could and should be mitigated by adequate rules of international law deduced from the treaty provisions and deriving from the special legal status of the archipelago.

But, unlike the 1959 Antarctic Treaty and a number of international instruments concerning other polar regions, the 1920 Spitsbergen Treaty did not lay down "the conditions under which scientific investigations may be conducted in the said territories", leaving that matter together with the establishing there of an international meteorological station, to conventions which shall be concluded (Art. 5).

According to the Norwegian Ministry of Justice, so far, the issue of conclusion of such conventions has not been raised due to the fact that international research on Svalbard has been conducted on a relatively limited scale. In the early 80s, however, the issue has been discussed informally, as interest in research on Svalbard is growing. Norway which is interested in improving conditions for research in the archipelago warns, however, that irrespective of the right to "equal liberty of access and entry", guaranteed to the

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<sup>8</sup> The text in Report No 40 to the Norwegian Storting (1985–86) concerning Svalbard, recommended by the Ministry of Justice on 18.IV.1986, approved in the Council of State on the same date, Appendix 2, pp. 73–76.

<sup>9</sup> The Mining Code (the Mining Regulations) for Spitsbergen (Svalbard), laid down by Royal Decree of 7.VIII.1925 as amended by Royal Decree of 11.VII.1975 in Report No 40 (note 8), Appendix 3, pp. 77–85.

parties by Art. 3 of the Spitsbergen Treaty, there is a limit to the number of scientists that can conduct research in Svalbard. Nevertheless, the authorities are studying scientists access to — and working conditions on — Svalbard<sup>10</sup>.

The described above statutory situation, does not mean, however, that the scientific activities in Svalbard are taking place in a legal vacuum. The Spitsbergen Treaty is namely based on following six fundamental principles, each affecting in a certain degree the scientific activities carried on within the treaty area: (1) the principle of internationalization of the right of access and to economic exploitation (Art. 1 and 3 of the Treaty); (2) the principle of equal treatment of the subjects of all contracting parties (Art. 2, 3, 4, 7 and 8); (3) the principle of demilitarization (Art. 9); (4) the principle of local use of revenue accruing from taxes, dues and duties (Art. 8); (5) the principle of recognition of previously established rights of old claimants (Art. 6 and 10); (6) the principle of full Norwegian sovereignty (Art. 2)<sup>11</sup>. The scope of impact of the referred principles on scientific research on Svalbard will be subject of our further considerations.

The adoption in 1990 of the Founding Articles for IASC, guided by the “principle of scientific openness” (Art. A.2) and the activities of that Commission, might help to fill, at least partly, the gap existing in this respect in the Spitsbergen Treaty system. For the time being, however, in the absence of detailed international regulations on the organization of scientific work on Svalbard, as stipulated in the Spitsbergen Treaty, the general principles upon which that instruments is based have, gained great practical importance.

**Status, rights and obligations of scientific expeditions, stations and their staff under the Spitsbergen Treaty regime.** The growing international importance of Svalbard in scientific respect has resulted in a large multinational presence of research workers in the archipelago. According to the terms of the Spitsbergen Treaty, the nationals of all the contracting parties to this treaty have the right to reside in the Archipelago on an equal footing and to exercise there and practice various enterprises. Ever since the early 1930s, however, only Norwegians and Russians — some of them involved in research work — have taken advantage of these rights. Nationals of other countries have only paid brief visits to the Archipelago, mainly in connection with various scientific projects. The precise definition of the status of subjects involved in scientific activities and of their rights and obligations, must be done with reference to the special legal regime of Svalbard. According to that regime, the status, rights and obligation of these

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<sup>10</sup> Report No 40 (note 8) items 9.2.1. on p. 55 and 9.2.7. on p. 61. In 1978 a total of 48 expeditions were registered, comprising 360 members working in 11 areas of research. In 1981 there were 52 expeditions comprising 501 members working in 22 areas of research. Members of 13 nations were engaged on Svalbard in research, mainly in biology, geophysics, geology, oceanography and archaeology.

<sup>11</sup> Østrem Willy. 1977. Politics in high latitudes. The Svalbard Archipelago. London, 14.

subjects are incidental to the rules of international law, including the Spitsbergen Treaty, to appropriate Norwegian domestic laws and to some laws of the countries concerned. But, the Norwegian authorities have made it clear that no country other than Norway can “exercise any form of authority in Svalbard, not vis-à-vis its own nationals either”<sup>12</sup>. Thus, according to international law in force, Norway wields sovereignty, with full and unlimited supremacy, and has the right to enforce its laws and regulations, provided this is done in a fair and impartial way, in accordance with the Spitsbergen Treaty provisions.

Of primary importance to anyone undertaking scientific activities in Svalbard is the problem of access to and entry in the archipelago, which is regulated in the Spitsbergen Treaty on the basis of liberty and equality for all the parties to it (Art. 3). In the absence of the conventions on scientific investigations stipulated in Art. 5, there was elaborated out of practice, an effective procedure of applications, send through diplomatic channels to the Governor of Svalbard by those seeking official permission to enter the archipelago for the purpose of research, to organize polar expeditions, to establish scientific stations etc.

While most foreign scientific institutions inform the Norwegian authorities of any impending expedition to Svalbard, Russians generally omit to do so. Although there is no formal obligation to register at Svalbard, nonetheless, ever since the 1920s foreign expeditions have consistently informed the Norwegian authorities of impending scientific activities. There are several reasons why the Russians have not consistently done so: unlike other nationalities they know Svalbard intimately. This means, that in case of any accident, their expeditions can be supported and relieved by the local Russian mining communities, while other foreign expeditions would depend in similar cases on Norwegian assistance. There are also political reasons of omitting to inform Norwegian authorities about impending expeditions to the archipelago: the Russians demonstrate their independence, making at the same time difficult to exercise any effective control in Svalbard. The non-intervention policy with regard to internal Russian matters has merely accentuated the problem of control of their expeditions, which to a large extent have been able to avoid Norwegian administrative control, whereas other foreign expeditions have considered their interests best served by facilitating it<sup>13</sup>.

On the other hand, it must be pointed out, that the Norwegian authorities have not done much to speed up the drafting of the conventions on scientific investigations stipulated in Art. 5 of the Spitsbergen Treaty. Nonetheless, anyone engaged on Svalbard in any kind of activity, including scientific research, is subject to Norwegian law. The scope of its validity was outlined in details in the earlier referred 1925 Svalbard Act.

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<sup>12</sup> White Paper No 39 (1974–5) relating to Svalbard, p. 8.

<sup>13</sup> Østreng W., *op.cit.* (note 11) 76; Mathisen Trygve. 1954. Svalbard in the changing Arctic. Oslo, 66–7.

No modern polar research is possible today without adequate infrastructure and efficient logistics, both meeting the high international technical standards and the requirements of law. Although 75 years ago, it was not possible to anticipate all the trends in the dynamic development of science and technology, the 1920 Spitsbergen Treaty, without direct reference to scientific activities, offered them a limited guidance in this respect. Its general outlines were later substantiated in the Norwegian 1925 Svalbard Act. The combined provisions of these two legal instruments, allow to formulate some conclusions on the status and functioning of scientific infrastructure and logistics on Svalbard.

The base for any large scale and long-term polar investigations is the scientific station, furnished with indispensable means of existence in harsh arctic conditions and equipped with necessary research instruments. Its foundation requires not only acquisition of land, transportation of building material, equipment and man power etc., but also the prior fulfillment of a number of legal requirements and formalities, especially when its construction is carried in an area with a special status like Svalbard. Some guidance offer in this respect the provisions of the Spitsbergen Treaty and the Svalbard Act. The former, in Articles 6, 7 and in the Annex to the Treaty, provides for the recognition of claims arising from taking possession or from occupation of land before its signature, as well as for methods of acquisition, enjoyment and exercise of the right of ownership of property on the basis of complete equality of treatment. The latter, in Chapter IV on "Special rules relating to property", provides in Paragraphs 26 and 27 that anyone who wishes to carry on scientific investigations shall have as the ground proprietor the sole right of hunting and catching on the property only in the vicinity of dwelling, houses, magazines, work-shops and other buildings which have as their purpose the utilization of the property. That provision is restrictive, as compared with other proprietors, who enjoy the same rights within a distance of 10 km from the main seat of the activity or utilization of the property. In par. 28(2), the Act provides that enforced relinquishment of a right of ownership or use of real property may be permitted when the State needs the ground for scientific use. Availing themselves of the opportunities offered to researchers by the relevant legal provisions, several countries organizing polar expeditions to Svalbard have set there a number of permanent scientific stations, often supported by a network of cooperating smaller observatories and field camps<sup>14</sup>.

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<sup>14</sup> From 1957 Poland is running a permanent polar station in Hornsund. See: Machowski J. 1994. Polish scientific activities on Spitsbergen in the light of international legal status of the archipelago. In: XXI Polar Symposium. 60 years of Polish research of Spitsbergen. Warszawa—Poland, September 23–24, 1994, pp. 351–360. Among other in 1983 several Western European countries and Japan have erected a permanent observatory in Adventdalen, while the Russian researchers established a smaller station on Heerodden for comparable studies. The Norwegian Polar Research Institute operates a years-round station in Ny Ålesund and an extension summer service, offering assistance to scientists in Longyearbyen. It also has set up two automated stations in Kong Karls Land and Phippsøya to investigate the east side of the archipelago.

For scientific expeditions and research stations operating in the isolated polar regions of utmost importance are transportation and communications. Unlike in Antarctica, in the Arctic logistics support is generally fragmented and insufficient, while researchers must arrange for it themselves.

Right up to 1934 the colliers were the only regular sea link between Svalbard and the Norwegian mainland. In that year sea links were strengthened when the passenger vessel *Lyngen* started a regular summer service, carrying five to eight voyages in the season from Norway to Svalbard. But in the winter months Svalbard remained completely cut off from the outside world. In 1949 the first airmail service was introduced and in 1959 a year-round mail, freight and passenger air service between Norway and Svalbard was opened. The Russians provided their own means of transportation between the archipelago and the mainland, as well their own vessels, airplanes and helicopters. Under these circumstances, other countries involved in research activities on Svalbard, are also supplying their scientific expeditions and parties, as well as the research stations with own means of transportation.

The 1920 Spitsbergen Treaty regulates the transportation matters in Art. 3 only in general terms, providing — without reference to scientific needs — for free and equal access and entry to the waters and land of the archipelago. This article stipulates for an important privilege for the ships belonging to the parties of the Treaty, going to or coming from Svalbard, giving them the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board and disembarking passengers or cargo going to or coming from the archipelago, or for any other purposes. It was further agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals of the parties to the Treaty, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation. No charge or restriction shall be imposed on the exportation of any goods to the territories of any of the parties to the Treaty other or more onerous than the exportation of similar goods to the territory of any other party.

Svalbard's internal transportations are poorly developed; there are few roads, and those that exist have mainly been built within the few settlements. Transport between them and the scientific stations, is either by means of small coastal steamers and boats, and to smaller extent by light aircraft and helicopters. During the winter months snow scooters are the commonest means of conveyance<sup>15</sup>.

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<sup>15</sup> As of 31.XII.1972 there were 318 licensed motor vehicles in Svalbard, of which 216 were snow scooters and 39 passenger cars. Soviet motor vehicles, in contrast to Norwegian were not registered, despite the fact that they are not exempt from the obligation to register and no official exception exists for Russian personnel. In 1985 the total number of Norwegian vehicles has grown up to 1632 and of Soviet vehicles to 134. Report No 40 (note 8) item 6.2., pp. 35–37 and Østreng W., *op.cit.* (note 11) pp. 76–77.

Art. 4 of the Spitsbergen Treaty on communications, which is particularly important to scientific activities, stipulates that "owners of landed property shall always be at liberty to establish and use for their own purposes wireless telegraphy installations, which shall be free to communicate on private business with fixed or moving wireless stations, including those on board ships and aircraft", while all public wireless telegraphy stations or to be established in Svalbard shall always be open on a footing of absolute equality to communications from ships of all flags and from nationals of the parties to the Treaty. Considering that radiotelegraphy was the only means of telecommunication in use when the Treaty was drafted, its provisions may today be interpreted as applying to all telecommunications, covered by the International Telecommunications Convention, which in 1965 has replaced among other the outdated Wireless Telegraphy Convention of 1912, referred in Art. 4 of the Spitsbergen Treaty.

Accordingly, the observance and enforcement of these regulations in Svalbard are of Norway's responsibilities, including the regulation of radio transmissions within the Treaty area and allocation of frequencies.

The wording of the referred provisions has highlighted the question of whether property owners in Svalbard, including the managers of scientific stations, also have the right to use radio transmitters without a concession outside their property. The Norwegian view on this is that property owners are entitled to establish radio stations without a license issued by the authorities only within their own areas. Radio transmitters belonging to scientific expeditions or stations are consequently in the ordinary course of events subjects to the control of the Norwegian authorities. At the end of the 1960s the attention of the Norwegian authorities was drawn to several cases of unwarranted use of radio transmitters by Russian scientific expeditions. The matter was brought to the notice of the U.S.S.R. authorities through diplomatic channels, but the Russians appeared, at any rate at that time, to be unwilling to accept the Norwegian viewpoint, and the question has not been settled between the two countries. At the same time, in official quarters in Norway, it has been pointed out, that in spite of that incident, the Norwegian administrative control with regard of radio communication has been enforced vis-à-vis scientific expeditions and stations of other nations<sup>16</sup>.

Thus, it appears that all nationalities, with the exception of the Soviet Russians, have sought permission to use radio transmitters and frequencies without being requested to do so by the Norwegian authorities. In all known cases such permissions were granted, and there is a general agreement between the parties on the Norwegian interpretation of the Spitsbergen Treaty in this respect.

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<sup>16</sup> Østreng W., *op.cit.* (note 11) p. 75.

## The interrelationship between the scientific and other activities in Svalbard

Scientific research is neither the sole, nor even the most significant among the activities practiced in Svalbard. In contradistinction to Antarctica, where it is enjoying a prominent place and preferential treatment, in the Arctic — and Svalbard is no exception — scientific investigations were made secondary to economic interests, in particular the exploitation of living and mineral resources. That fact is evidently reflected in most relevant legal instruments, from which science and research are conspicuously absent. The absence of adequate rules, compels to reach for comparative interpretation of the available texts, in search for satisfactory legal guidance in scientific activities. To evade the blame for narrow-mindedness, let us analyse comparatively the wide spectrum of interrelationship and interaction between the scientific activities on Svalbard, which have been deprived of adequate legal regulations, and other activities done within the Spitsbergen Treaty area, which are regulated by proper legal rules. The interrelationship between scientific and other activities can either be antagonistic, propitious or neutral. That character of these relations is often reflected in the contents of relevant legal provisions, which display the common and the antagonistic interests and values behind the various activities carried on in Svalbard.

**Science and exploitation of Svalbard's resources.** Svalbard's natural resources — first living then mineral — attracted over the years men of various nationalities, bringing that remote and isolated area into the focus of world economy. Its exploitation became the primary and predominant occupation in Svalbard, diverting the attention from scientific activities, which very slowly paved the way for their presence in the archipelago. But science and economy were never antagonistic there. In contrary, exploration and research went in Svalbard together hand in hand. The development of traditional trades like catching, fishing, hunting, trapping and finally mining, especially in hard polar conditions, required the application of ever more sophisticated modern technology and scientific support, creating strong incentives and opening new opportunities to research in various branches of science.

Since mining industry is of primary importance to Svalbard and of special international interest, on 7.VIII.1925 *The Mining Code for Svalbard*<sup>17</sup> was laid down by a Norwegian Royal Decree, regulating the conditions of exploitation of mineral deposits within the entire archipelago. Since the borderlines between such notions like pure and applied sciences, prospecting and exploration, are in legal terms rather vague, of particular importance for scientific research, especially in such sciences like geology and

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<sup>17</sup> Note 9.

geophysics, are the provisions of Chapter II "On search and discoveries" (Paragraphs 7–10) of the Mining Code. It attempts to separate the industrial search and exploration from scientific investigation and research, providing among other in Par. 7(5) that no search for natural deposits must be made within a distance of 500 meters from any scientific establishment. The remaining chapters of the Code regulate in detail such technical and legal problems like claim of patents, relations to the proprietor of the ground, general conditions of mining, protection of workers etc. affecting science and research only indirectly.

Par. 24 of the Code provides for the safeguarding from "the destruction of any geological and mineralogical formations or any other natural curiosities or places which may be supposed to be of scientific or historical importance". These protective measures were weakened and limited considerably, by reservations, providing that this safeguards are stipulated only "to such extent as may be done without special difficulties and expenses" while "endeavors should be made in the course of operations".

**Science and military activities.** By virtue of Art. 9 of the 1920 Spitsbergen Treaty, the archipelago was demilitarized. Prior to World War II, there was little concern for the strategic position of Svalbard. But, the Treaty provisions on demilitarization did not save the islands from becoming during the war the scene of sporadic sea and land military operations and a brief enemy occupation, inflicting serious damages. In result, the archipelago was used as an integral part of the Allied conduct of war against the Axis powers in several ways. That allowed during the war to lapse Art. 9 of the Spitsbergen Treaty, which did not apply to the relationship between Germany and Norway once the Germans occupied Svalbard early in 1942.

Svalbard is situated in the center of the strategically sensitive Arctic region. Its transformation after World War II into "the coldest front of the cold war", was made possible mainly in result of the development of scientific techniques, enabling effective control of the polar environment. That added to polar research a new dimension, promoting it to special position and higher rank<sup>18</sup>.

The armed forces of some arctic states, in particular Russia and the United States, established special polar institutes and laboratories to investigate that region for military purposes. To support military operations in the Arctic, each of the armed forces concerned, conducts there special research and development (R&D) programmes of varying scale and intensity to meet their particular needs on land, sea, ice, in the air and outer space. The militarization of Arctic science had both positive and negative effects. On the one hand, substantial financial means were appropriated for polar research, which involved large scientific staff

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<sup>18</sup> See: 1984. United States Arctic Interests. The 1980s and 1990s. William E. Westermeyer and Kurt M. Schusterich (eds) New York, pp. 271–274; Thomas Ries. 1980. Svalbard, Flashpoint of the Far North, *In: International Defense Review*, 3 : 335–339.

and military logistics and other support. On the other, the secrecy accompanying military scientific research resulted in closing of vast areas and refusing the access to scientists, limited considerably their freedom of scientific research in that region. Moreover, military remained proprietary of most of the secret research results for long time, reducing the universal repository of arctic knowledge and deterring its progress.

The demilitarization clause of the Spitsbergen Treaty merely prevents the setting up in the archipelago of any naval base and the construction of any fortification which might be used for warlike purposes. It does not prevent, however, from casual visits to Svalbard of naval vessels and military aircraft, the logistic support of which is essential to scientific expeditions and stations, operating within the Treaty area. Such practice is comparable with that in the opposite, Antarctic region<sup>19</sup>. Foreign military units, however, are not allowed on Svalbard without prior permission of the Norwegian authorities. Although such requirement is not specifically mentioned in the Spitsbergen Treaty, it is in accordance with general principles of international law.

The strategic situation of Svalbard changed radically with the breach by Norway with the traditional policy of neutrality and its adherence to NATO. The resulting subordination of Jan Mayen and Svalbard to the North Atlantic Command established in December 1950, was met with a protest launched on 12.X.1951 by the Soviet Union, which considered that step as a direct breach of the demilitarization clause in the Spitsbergen Treaty. In its reply of 30.X.1951, the Norwegian Government pointed out that no military fortification or base had been established in Svalbard, nor would the government allow any state this privilege. Although these assurances did not satisfy the Soviet Union, further exchange of notes was discontinued. Fearing American military infiltration, in 1958 the Soviet Union protested against the building of an all-the-year-round airfield in Svalbard. In spite of it, by the autumn of 1975 the airfield at Ny Ålesund was completed.

On 3.IX.1964 the Norwegian Government gave the European Space Research Organization (ESRO) permission to construct a telemetric station at Kongsfjord in Svalbard. The station was to run by the Royal Norwegian Council for Scientific and Industrial Research with the chief task to transmit and receive signals from satellites placed in orbit round the earth by ESRO for purely civilian research. In 1965 and 1969 the Soviet Government launched protests, revealing its fear of these installations. It expressed the opinion, that the telemetric station in Svalbard, apart from its purely scientific aims, could be used for military purposes, in particular for carrying out cosmic, ra-

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<sup>19</sup> According to Art. 1 par. 2 of the 1959 Antarctic Treaty, the demilitarization of that region does "not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose." See also: Østreng W., *op.cit.* (note 11) pp. 44–59 and Machowski J. 1990. The right to freedom of research under the Antarctic Treaty System. *In: Polish Polar Research*, 11 (3–4): 419–434.

dio-technological, and other forms of intelligence activity over the territory of the Soviet Union, and that its real tendency can only be determined by constant surveillance and supervision of its activity by Soviet experts. Permission for it was granted and inspections by Russians and scientists of other nations allowed to convince them of the civilian-scientific nature of ESRO's activities which ended its operation in spring of 1974.

After World War II, especially during the period of the "cold war", scientific activities in Svalbard were taking place in the atmosphere of constant suspicions and fears that they might be used for military purposes. These feelings are clearly reflected in the diplomatic correspondence exchanged between Norway and the Soviet Union, which was always feeling that Svalbard might be used as a base for controlling the vital for Russia northern sea passage and for hostilities against its territory<sup>20</sup>. Norway's non-violation of Art. 9 of the Spitsbergen Treaty, its open door policy, facilitating Russian access to Svalbard and their surveillance in critical situations, helped to keep order within the Treaty area, necessary for peaceful conduct of scientific research.

**Scientific research under Svalbard's environmental legal regime.** Svalbard's ecosystem is extremely fragile and vulnerable, like any other in the polar regions. It is an important part of the larger arctic environment, which from natural point of view forms an indivisible polar entity, in despite of the existing frontiers and opposition to recognize the Arctic as a coherent geographical region. Consequently, in contrast to Antarctica, where since 1991 a uniform and comprehensive international environmental legal regime is introduced<sup>21</sup>, in the Arctic, the problems of environmental protection and nature conservation are fragmented and incoherent. They are subject of numerous, often contradictory international and internal legal regulations, reducing considerably their effectiveness. That unsettled legal situation poses serious problems to Arctic science<sup>22</sup>, affecting also research in Svalbard, which is subjected to a special international regime. Let us now have a closer look at the interrelationship and interaction of the rules regulating scientific activities and environmental protection in Svalbard. In despite of all appearances, the relationships between scientific research and environmental protection are not only of propitious, but often also of antagonistic nature. On the one hand, the regulations on the environmental protection are safeguarding for science the priceless values of pristine polar nature, on the other, however, by imposing restrictions on the

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<sup>20</sup> Note 1.

<sup>21</sup> Machowski J. 1992. The Antarctic environmental legal regime. *In: Polish Polar Research*; 13 (3-4) : 183-214. Although the 1991 Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on 4.X.1991 (30 I.L.M.1455) did not enter yet into force, many of its provisions are already applied.

<sup>22</sup> See note 5.

liberty of access, movement *etc.*, they limit considerably the freedom of scientific investigations<sup>23</sup>.

As long ago as 1914, Norway submitted proposals for establishing national parks in Svalbard, but this was met with no response at the time. Not till the last decades have measures of this kind been introduced there to reduce the damage caused to the natural environment by technical and economic, but also scientific activities.

The 1920 Spitsbergen Treaty was drafted decades before environmental protection became one of the major issues in global politics and international law. In this situation, its authors ought to be complimented on having displayed intuition and foresight, when they inserted into Art. 2 stipulations providing that "Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the reconstitution of the fauna and flora of the said regions, and their territorial waters." It was understood that these measures shall always be applicable equally to the nationals of all treaty parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them. Further, in the same article, territorial limitations to the exclusive right of hunting were imposed on the occupiers of land.

These general and vague to modern standards stipulations became the departure point for detailed Norwegian laws and regulations on environmental protection and nature conservation in Svalbard<sup>24</sup>. The Norwegian Ministry of the Environment which assumed responsibilities in this respect, has pledged "promoting favorable conditions for research, experiencing nature harvesting resources on Svalbard as far as this is compatible with the objectives" of protecting and retaining Svalbard's flora and fauna and its unspoiled wilderness and limiting damage to the natural environment in the areas affected by economic activity<sup>25</sup>. The new regulations concerning protection of the natural environment in Svalbard which entered into force in 1984, contain not only detailed provisions concerning nature conservation and prevention of their degradation, but also other environmental provisions, affecting directly or indirectly the freedom of scientific investigations, such as limitations on the

<sup>23</sup> Wong F. and Newman F. 1986. Restrictions to Freedom of Scientific Research through Environmental Protection. *In: Antarctic Challenge II*, (ed.) Wolfrum R., Berlin, pp. 103–109; Machowski J. 1990. The right to freedom of research under the Antarctic Treaty System. *In: Polish Polar Research*; 11 (3–4): 419–434.

<sup>24</sup> Provisional Regulations for Regulating Encroachment on the Countryside in Svalbard and Jan Mayen of 28.V.1971 which were replaced on 1.IV.1984 by the Regulations for Nature Conservation on Svalbard. For recent regulations *see*: St. meld. nr. 22 (1994–95) Om miljøvern på Svalbard, and annex to it: Svalbards naturmiljø. These reports prepared by the Norwegian Ministry of the Environment (Miljøverndepartementet) contain extensive information on the actual status of Svalbard's environmental regime and conservation of its flora and fauna.

<sup>25</sup> Report No 26 (1982–83) to the Storting on Environmental Protection, Surveying and Research in Arctic Areas, p. 18.

access to and movements in the newly established national parks, nature reserves and bird sanctuaries<sup>26</sup>. The Norwegian authorities responsible for the protection of Svalbard's ecosystem are particularly disturbed with the fastly increasing numbers of scientists coming to the archipelago, especially those arriving there in summer, just at the time when the vulnerability of the newly born animals is at its peak<sup>27</sup>. The new regulations provide for strict rules regarding traffic and pollution, which apply to all activities on Svalbard, including scientific investigations.

In Svalbard, there have been registered about 300 cabins or ruins of cabins. Many of them were set up either in connection with scientific investigations or are used now by expeditions for research purposes. As earlier mentioned, §27 of the 1925 Svalbard Act accorded the scientists the right to construct cabins and to enjoy certain privileges connected with it, but the Norwegian authorities responsible for the protection of the environment, encounter considerable difficulties to distinguish and define precisely the notions of "scientist", "catcher", "hunter" and "fisherman". That distinction is necessary for establishing the scope of obligations and rights vested in each of the persons concerned by the Act.

Further limitations on freedom of scientific research were imposed by the Royal Decree of 11.IX.1978 relating to the management of wildlife and freshwater fish on Svalbard and Jan Mayen, since science also needs to ensure for research purposes the survival of animal populations living in an environment which is relatively untouched by human activities.

The preservation of cultural relics (monuments, and artifacts) is another common task of scientific and ecological activities in Svalbard, both in an historical and environmental context. The efforts to preserve the cultural heritage in the archipelago, dating since 1926, are now governed by the Regulations of 21.V.1974 related to the Protection of Cultural Relics on Svalbard and Jan Mayen. The details of that task were outlined in Chapter 4 of the Report No 26 (1982–83) to the Storting relating to Environmental Protection, Surveying and Research in Arctic Areas. According to the regulations, all permanent and cultural relics from 1945 or earlier are to be automatically protected, while the Troms Museum serves as a specialized advisory agency to the Governor of Svalbard and has decision-making authority in questions which directly concern examination of the cultural relics by experts. The Report has also stressed the need to extend cooperation between the Norwegian administration in Svalbard and the archaeological expeditions of other countries operating within the archipelago.

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<sup>26</sup> Since 1973 more than half of Svalbard has been declared protected areas, including 3 national parks, 3 nature reserves with even stronger protection, 15 bird sanctuaries and 3 plant reserves, giving nature conservation priority before any other activities, including scientific.

<sup>27</sup> Report No 40 (note 8) Chapter 8, pp. 48–54 and note 10.

## Marine scientific research in Svalbard

A considerable part of research in Svalbard, especially in such sciences like oceanography, limnology, glaciology, but also geology and meteorology, is carried in marine environment. Unfortunately, the legal status of maritime areas in the Arctic in general, and in Svalbard in particular, is far from being settled, which situation is affecting among other the scientific activities there. In the waters of the Arctic Ocean, which cover more than 2/3 of the region's surface, are competing the rules of the international law of the sea and the polar sector theory<sup>28</sup>, opening the door to disputes, which also Svalbard did not escape (Fig. 1). Since the signing in 1920 of the Spitsbergen Treaty, the law of the sea underwent a real revolution, which culminated in the conclusion on 30.IV.1982 of a new Law of the Sea Convention (LOS). But the waters within the Spitsbergen Treaty area must be treated as a particular case, because they come under an international regime defined in a special treaty. That treaty has placed Svalbard under "the full and absolute sovereignty of Norway" (Art. 1), granting in Art. 2 the ships and nationals of the parties equal rights of fishing and hunting in the territories of Svalbard and in their territorial waters and in Art. 3 the "equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports" of the archipelago. Subject to the observance of local laws and regulations — which for obvious reasons are the Norwegian laws — they may carry on there without impediment all maritime operations on a footing of absolute equality.

The adoption in 1982 of the new LOS has introduced into this status significant political and legal elements, generating potential sovereignty and jurisdictional disputes. These new factors must be considered in two aspects: the territorial scope, which in accordance with the new LOS must be approached in horizontal and vertical planes and the substantial scope, both affecting scientific activities carried on within the legally differentiated maritime zones of the area in question.

The Spitsbergen Treaty is applicable to the islands and waters within the area defined in its Art. 1 (called "Spitsbergen Treaty area" or "Svalbard net") and in particular to the territorial sea of the islands, which is 4 nautical miles

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<sup>28</sup> Although the polar sector theory has not gained full international acceptance, it is part of the doctrine of international law since 1907, when it was advanced by Pascal Poirier, a Canadian senator, as the solution of the national status of polar regions. The main Arctic powers Canada and Russia base their territorial claims in the region on that theory, emphasizing its practical importance there. Other arctic rim states, including Norway, did not establish their polar sectors and proclaim consistently the applicability there of the general rules of the law of the sea, which includes among other the free seas principle. Jenisch U. 1984. The Arctic Ocean and the New Law of the Sea. *In: Aussenpolitik*, vol. 35, no. 2, pp. 206–210, Schusterich K.M. 1984. International Jurisdictional Issues in the Arctic Ocean. *In: ODILA*, vol. 14, no. 3, pp. 257–259.

wide<sup>29</sup>. But, in accordance with the new LOS, the islands of Svalbard archipelago have also the right to a continental shelf and an economic zone.

From 1974 and onwards Norway and the former Soviet Union discussed the issue of the boundary line in the Barents Sea, but the question remained unresolved. Negotiations are being continued with the Russian Federal Republic, which after the dissolution of the U.S.S.R. has taken over the interests of the former Soviet Union in this region. The Russians adhere firmly to the sector-line principle, while Norway advocates the median-line principle. The disputed waters cover 155 000 km<sup>2</sup>, equivalent to almost half the total area of mainland Norway. The former Soviet Union and Norway have concluded a provisional agreement concerning fishing rights in what is known as "the grey zone"<sup>30</sup>.

There has been also discussion about the continental shelf around Svalbard. Norway claims that although the archipelago has its own natural shelf, it is from a geographical and geological point of view only an extension and part of the larger Norwegian mainland shelf. That interpretation means in practice, that it is one homogeneous shelf, extending from the Norwegian mainland towards the North Pole, right up to the arctic deep sea, far north beyond Svalbard, over which region Norway would claim exclusive shelf jurisdiction, as provided by the new LOS. However, exceptions have to be made for the shelf lying within the Svalbard net, to which area the Spitsbergen Treaty provisions are applicable. According to Norway, it should have within this extended area exclusive right to control all forms of activity, like research, exploration, prospecting, exploitation, oil drilling etc., because of its sovereign and jurisdictional rights under the Spitsbergen Treaty. Some of the signatory powers, including the United States and Great Britain have reservations against the Norwegian interpretation and seem to advocate some kind of "international line" based on the Spitsbergen Treaty provisions. Also Russia considers that the Treaty should be valid for the Svalbard shelf, while a border line should be drawn between Svalbard's "legal shelf" and the Norwegian mainland shelf<sup>31</sup>.

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<sup>29</sup> In the Spitsbergen Treaty the width of Svalbard's territorial sea was fixed irrespective of whether it is ice-bound or not. In fixing the width of these waters, principles were adopted applied generally in other geographical regions in spite of the fact that the draft of this treaty, prepared at the conference in Oslo in 1912, had foreseen that territorial sea of Spitsbergen should comprise: "waters and ice areas surrounding the island up to the width of eight sea miles". *Revue Général de Droit International Publique*. 1913. Vol. 20.

<sup>30</sup> "The grey zone" covers 41 500 km<sup>2</sup> of disputed waters, 23 000 km<sup>2</sup> of undisputed Norwegian waters and 3000 km<sup>2</sup> of undisputed Russian waters — all in all 67 000 km<sup>2</sup>. Other zones in this area are the Svalbard zone — a 200 nautical mile fisheries protection zone established on 3.VI.1977, the Jan Mayen zone proclaimed in 1979 and enforced from 28.V.1980, and a mainland economic zone of 200 nautical miles established around mainland Norway from 1.I.1977 (see Fig. 1).

<sup>31</sup> The Swedish scholar B. J. Theutenberg expressed the opinion that "considering the development of international law in this area and the lines along which it may be shaped in the future, one can perhaps divine the wish behind the Soviet stand to preserve a vital area under an international

Similar controversy has arisen in regard to the establishment of an economic zone round Svalbard. In result, Norway has refrained from establishing it and restricted itself to a non-discriminatory so-called fishery conservation zone, declared in 1977. Nonetheless, there is a general trend to respect in Svalbard's maritime area the rights of Norway stipulated in the Spitsbergen Treaty<sup>32</sup>.

Of particular importance for scientific activities in Svalbard's maritime environment are the stipulations contained in Part XIII of the 1982 LOS Convention, dealing with Marine Scientific Research (Articles 238–265). These articles provide among other for global and regional cooperation in marine scientific research, conduct and promotion of that research, legal status of scientific research installations or equipment in the marine environment and finally are dealing with responsibility and liability, as well as settlement of disputes related to marine scientific activities. Only one article (Art. 234) of that extensive Convention — of particular importance to polar research — is concerning ice-covered areas<sup>33</sup>.

The absence of special conventions on scientific investigations, stipulated in the Spitsbergen Treaty, added a new dimension to the relevant LOS provisions, which are applicable to marine scientific research in the Svalbard area.

## Conclusions

In conclusion, it is proper to mention the recent efforts to transform Svalbard into a prominent universal scientific, research and educational center, as well as an important link in the world-wide chain of global observations and investigations. Recent years have seen a considerable increase in international research on Svalbard, both in numbers of foreign scientists and participating countries, and in the extension of the topical scope of research projects.

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treaty -- bound regime, and thereby prevent the area from entirely falling under one single holder of sovereignty." Bo Johnson Theutenberg. 1984. *The Evolution of the Law of the Sea. A study of Resources and Strategy with Special Regard to the Polar Regions*. Dublin p. 54. See also: Sollie F. 1988. *The Soviet Challenges in the Northern Waters: Implications for Resources and Security*. In: *Security Policy Library*, no. 2, p. 4 ff.; Østreng W. 1984. *Soviet–Norwegian relations in the Arctic*. In: *International Journal*, vol. XXXIX, pp. 867–888.

<sup>32</sup> For instance, in 1980, during the Swedish scientific expedition "Ymer–80" to Svalbard, on board a state owned ice-breaker, the continental shelf around the archipelago was treated by the Swedish side, as lying under Norwegian sovereignty. Thentenberg *op. cit.* Ibid. pp. 54–56.

<sup>33</sup> Art. 234 of the 1982 LOS Convention provides that "Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstruction or exceptional hazards to navigation and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence."

Since 1962, it has been the aim of the Norwegian policy to concentrate scientific activities in Ny-Ålesund, in cooperation with research institutions from Germany, Japan and the United Kingdom, which have established all-year activities there, involving the presence up to 140 scientists for longer or shorter periods. Situated at 79°55' N, it is one of the most northerly permanent land stations in the world, serving both as an observatory, a laboratory and field operations base for scientific institutions.

Although Ny-Ålesund will remain a center for scientific research also in future, the role of Longyearbyen, Svalbard's informal capital, will be strengthened too, by moving there a considerable part of staff and tasks of the Norwegian Polar Institute. In addition, an important international scientific project was based there, after the opening of a new radar in the EISCAT (European Incoherent Scatter Facility) system, carried out in cooperation between Norway, Sweden, Finland, the United Kingdom, Germany and France. The objective is to provide data on the influence of solar energy in the arctic atmosphere, including studies of the northern light.

Recently Longyearbyen became also the northernmost university educational center. A private foundation for university studies in Svalbard (UNIS), established by four Norway's universities, started in 1993 classes with 23 students, studying there arctic geology and arctic geophysics. In 1994 a class in arctic biology was added. With 15 studying each of the subjects, the polar "campus" became populated with 45 students. The plan is to develop UNIS into a permanent university institution with 100 students — 70 undergraduates and 30 involved in post-graduate and doctoral pursuits in arctic science. UNIS will also carry out research based on Svalbard's geographical position as an Arctic region. In time, UNIS, where part of the education is in English, will be transformed into an international university center. To absorb a group of more than 100 students and lecturers, will undoubtedly represent a challenge to the small Longyearbyen community of ca. 1000 people dominated by miners, managers and officials<sup>34</sup>.

Ever more frequently is Svalbard the site of international scientific meetings, seminars, symposia *etc.* on polar research subjects. In the coming years, Norway intends to give priority the exploration for oil in the Barents Sea.

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<sup>34</sup> Tore O. Vorren. 1992. Norway in the Arctic, (ed.) Norinform; Helge Loland. 1994. Svalbard — "The land of the cold coasts", ed. Norinform; Morten Ruud and Ivan Gröthli. 1994. Svalbard and Jan Mayen. The Northern and Western Extremes of Norway, (ed.) The Norwegian Atlantic Committee. Security policy Library No 10/1994. For recent organizational and financial implications of scientific activities on Svalbard see: Dokument nr. 1 (1994–95) Ekstrakt av Norges Statsregnskap og regnskap vedkommende administrasjonen av Svalbard for 1993. Saker for desisjon av Stortinget og andre regnskapssaker, pp. 59–67; Justis- og politidepartementet, St. prp. nr. 1(1994–95) for budsjetterminen 1995, Svalbardbudsjettet 16.IX.1994, pp. 7–8; Innst. S. nr 98(1994–95) Innstilling fra kontroll — og konstitusjonskomiteen verdørende Riksrevisjonens konstitusjonelle antegnelser til statsregnskapet og regnskap vedkommende administrasjonen av Svalbard for 1993 (Dokument nr. 1) pp. 13–14.

Russian scientific activities in Svalbard include large-scale and long-term research programmes in the fields of meteorology, geology, oceanography and glaciology among others.

At the southern tip of Svalbard, since 1957 operates in Hornsund a permanent, year-round Polish research station, staffed with 10–12 scientists. Its research programme comprises among other meteorological observations, local seismic measurements, biological, magnetic and glaciological recording, marine biology, terrestrial ecology, effects of pollution on ecosystem and archaeology<sup>35</sup>.

In contrast to Antarctica, the Arctic was for a long time deprived of an adequate regional system of multilateral international scientific cooperation. The absence of the conventions on the conditions of conduct of scientific investigations, stipulated in Art. 5 of the 1920 Spitsbergen Treaty, has affected particularly painfully the international cooperation in polar research on Svalbard. Justifiable, therefore, seems the fastly growing importance for Svalbard of the recently founded international organizations, both large and small, which are trying to coordinate the scientific activities within the entire circumpolar Arctic region. Particularly well-established are here the Arctic Ocean Sciences Board, the International Arctic Social Sciences Association (ASSA) and the recent newcomer IASC. In the recent years the eight Arctic and Nordic countries have initiated environmental cooperation in the Arctic by means of so called Rovaniemi process. The respective ministers, who met at Rovaniemi, Finland, decided to establish an arctic system of environmental surveillance, in which the indigenous peoples of the area are broadly represented, with its secretariat in Norway.

In all these international endeavours, Svalbard is playing the role of focal point, as the centrally situated place and object of polar scientific research.

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## Streszczenie

W artykule przedstawiono Svalbard (Spitsbergen), jako miejsce i przedmiot intensywnej badań naukowych, prowadzonych zgodnie z postanowieniami Traktatu w sprawie Spitsbergenu z 1920 roku, który przekształcił ten archipeląg w unikalną jednostkę polityczną i prawną, nie mającą swego odpowiednika nigdzie w świecie. Działalność naukowa na Svalbardzie jest prowadzona w niezwyklej ramach prawnych, ukształtowanych przez zespół instrumentów zarówno prawa międzynarodowego, jak też krajowego ustawodawstwa Norwegii oraz przepisów prawnych innych

<sup>35</sup> See note 14.

zainteresowanych państw. Jednocześnie, Traktat w sprawie Spitsbergenu, pomimo swego sędziwego 75-letniego wieku, nadal pozostaje sprawnym instrumentem międzynarodowym, fundamentalnym dla utrzymania porządku i prawa w całym regionie Arktyki. W 1995 r. przypadła 9 lutego 75 rocznica podpisania Traktatu w Sprawie Spitsbergenu, zaś 14 sierpnia 70 rocznica ustanowienia nad archipelagiem władztwa Norwegii.

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