THE UN OLIGARCHS AND THEIR PRIVILEGES

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In the seventies and eighties of the last century, Rüdiger Wolfrum advised the German Federal Ministry of Economics on matters dealing with the Law of the Sea and Antarctica. There was then a conference in Wellington (New Zealand) on the mineral resources of Antarctica, where the two of us participated, sent by our respective Ministries. Rüdiger was not only the most knowledgeable, but also the most influential member of the German delegation. He mediated between those States which wanted the minerals and those which, for environmental reasons, wanted to leave them untouched; he went between industrialized and developing States and, above all, between non-claimant and claimant States. Not the least thanks to Rüdiger Wolfrum the meeting, after several weeks of negotiations, ended with the signing of a draft agreement (which, however, never made it to entering into force). When some time ago I came to think of the UN Oligarchs, I was reminded of Rüdiger Wolfrum’s successes in dealing with the similarly dominant claimant States and their inconspicuous but determined negotiating postures.1 On the occasion of his jubilee, though, I want also to mention the part in Rüdiger’s achievements in law and life played by his amiable wife Hilde who, lucky man, has always been there to be consulted and to look after him (and their friends and guests).

A. Introduction

When this article addresses the ‘UN Oligarchs’, it should be clear who is meant: of course, the five Permanent Members of the UN Security Council, colloquially known as the ‘Permanent’ or ‘P Five’ (‘P 5’). Pursuant to Arts. 23 and 110 of the UN Charter2 these Five are ‘The Republic of China, France, the Union of Soviet Socialist Republics, the

1 An earlier version of this article was my Erich Sucharipa Memorial Lecture, given at the Vienna Diplomatic Academy in May 2008.
2 In the following text unspecified Articles are those of the UN Charter.
United Kingdom of Great Britain and Northern Ireland, and the United States of America. The text of these Articles gives a first taste of the influence of those Powers: In a context of utmost importance two of them are listed under incorrect names: the ‘Republic of China’ is the Chinese entity, eventually reduced to the island of Taiwan, which since 1971 has as such no longer been a member of the UN; its successor as China’s representative in the UN and in the permanent seat is the ‘People’s Republic of China’; the Soviet Union for its part broke up in 1991 and, with the endorsement of the member States of the Commonwealth of Independent States, the Russian Federation simply informed the Secretary-General of the United Nations that it was continuing the Soviet membership.\(^3\) No UN member objected. Apparently the Charter has in these cases been overtaken by an undisputed state practice combined with a somewhat vague *opinio iuris* and the well known dislike—they can only lose—of the Permanent Five of opening the Charter to amendment proposals and procedures. Had this sufficed to create customary law, the Charter would have been amended without any further proceedings. But, in view of the explicit Charter regulations (Arts. 108, 109), member states expect that this change of names will be formalized at a future occasion.

Oligarchy is a word of Greek origin meaning the reign (*arché*) of a few (*olígoi*). Oligarchs are then the happy few who are in command. History has seen states which were governed by a few men or by descendents of a few families; ancient Rome at the time of Julius Cesar and the *triumvirs*\(^4\) could serve as an example. In more recent days the term ‘oligarchs’ has come to designate those Russian billionaires who wield great influence, and are suspected of doing so even beyond the field of their original engagement, and thus to have a say in political affairs.

Quite appropriately the Greek word *arché* also means ‘beginning’. The UN Oligarchs are then the five member states who were influential at the beginning of the Organization and therefore have been able to secure for themselves the well upholstered permanent seats in the Security Council, and who from those seats and some other equally

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4 1st triumvirate: Cesar with Pompey and Crassus, 60 BC; 2nd triumvirate: Cesar with Antony and Lepidus, 43 BC.