Nature Protection in the Arctic: A New Soviet Legislative Initiative

On June 1, 1990, the Council of Ministers of the USSR enacted implementing legislation concerning nature protection in the extreme north and adjacent maritime water expanses. This decree finds its roots in the 1984 edict on the Economic Zone, where the following provision can be found:

"The competent Soviet organs can determine, in a manner established by the U.S.S.R. legislation, rules for the prevention, reduction and control of pollution of the marine environment, and also for the safety of navigation and can enforce these rules in areas covered with ice and having particular natural characteristics, where pollution of the marine environment could cause major harm to the ecological balance or disturb it irreversibly."

It will be noted that even though this article very much reflects the content of Article 234 of the 1982 LOS Convention it is by no means identical. By the end of the same year the USSR promulgated a more detailed edict On the Strengthening of the Protection of Nature in the Extreme North and the Sea Areas Adjacent to the

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3 Translation can also be found in (1986) 1 IJECL 172.


5 For a comparison of both provisions, see E. Franckx, “The New USSR Legislation on Pollution Prevention in the Exclusive Economic Zone” (1986) 1 IJECL 155, 163-164.
Northern Coast of the USSR based exactly on both above-mentioned provisions. The present decree of the USSR Council of Ministers further implements the November 1984 Edict as required by the latter's Article 17.

In order to locate this particular Soviet legislation in a broader Arctic context, one should be aware that it was Canada which in fact paved the way for the enactment of this type of environmental legislation, claiming extended coastal state powers in this field, over Arctic offshore areas. Indeed, Canada already played this environmental card in 1970 in order to enlarge its grip over its northern water expanses. This move, which was very much contested at that time, was only reluctantly adopted by the Soviet Union about a year later in a far more general and thus less concrete manner. Compared with Canada, this country had very similar interests in the area. But the Soviet Union preferred to wait until new elements in the law of the sea, which seemed to generate general support, were duly codified before this country incorporated these novelties into its municipal legislation. One had to wait until the 1982 Convention to find such extended coastal state competence, relating to pollution prevention in ice-covered areas, formally codified on the international level. This 1990 Decree, therefore, with its detailed provisions on the subject, must certainly not be viewed as reflecting an avant-garde position taken by the Soviet government.

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7 Article 234 of the 1982 Convention and Article 14 of the February 1984 Edict.
8 For a first analysis of the 1990 Decree focusing on the maritime aspects involved, see the present author's "Nature Protection in the Arctic: Recent Soviet Legislation" to be published in ICLQ.
11 See Franckx, n. 8 above.