Military aspect of legal regulation in the Arctic

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Abstract. The Arctic is increasingly attracts attention of both the main regional players and the world's leading powers. European countries realize that development of an adequate Arctic strategy requires designing and implementing a wide range of political, legal, scientific, social, economic and military measures. There are a variety of views in expert circles on military security in the Arctic. Some experts predict future conflicts starting with regional arms races both between the Arctic states and between them and non-Arctic countries. The other one emphasizes that the Arctic tends to be one of the safest world’s regions in terms of military security. The unresolved question of who owns the Arctic is among the main causes of the possible conflict in the region. The conclusion is based on the thesis of legal uncertainty of the Arctic marine areas and of the Arctic Ocean mineral resources status, as well as on unresolved disputes on the demarcation of maritime spaces and continental shelf.

1. Introduction
The Arctic is a region of exceptional importance for the economy, national security and international economic relations of the Russian Federation. Issues related to the Arctic have not been resolved for many years despite the indisputable importance of the region. New unresolved problems are constantly being added to previous ones. It is important to take the legal regime of the Arctic into account, which is determined by various treaty and customary norms of international law, as well as by national laws of the Arctic states. The purpose of the study is to analyze the military component of Russia's Arctic strategy, to consider the basic documents describing Russia's strategy and actions in the Arctic.

2. The Main Body
The development of Subarctic and Arctic lands dates back to the very early stages of Russian history. According to the existing historical documents, state entities have entered into agreements and treaties with neighboring countries aimed at differentiating dominance in Arctic lands since Ancient Russia times. The economic potential of the Arctic was well recognized in 16th and 17th centuries both in Russia and Western Europe.

For a long period of time the Government of the Russian Empire considered development of the North a necessity, but not a priority. In late 19th and early 20th centuries, the question of the Russian North riches was updated due to rapid economic development and military power growth of the leading European powers.

A heated debate broke out in Russian society in 1880s and 1990s on the need for economic development of the Arctic and the parallel establishment of a powerful Navy in the Arctic Ocean. This view was expressed by many military, economists, and geographers. V.N. Semenkovich, the author of 'Letters on the Naval fleet' stated that the city of Vladivostok and the port on Murmansk should become operational bases of Russian battleships missions [1].

Since 1893, it has become a practice in Russian Empire to send battleships from the Baltic to the North in order to protect Russian fishery from foreign poachers. Each ship commander carried an instruction which outlined the limits of Russian Arctic waters. Sergei Witte was one of the active
advocates of Murman development. In 1894, as Minister of Finance, Witte traveled to Murman to find a location for the future naval base. Regrettably, the Minister of Finance idea was realized indirectly, as a commercial port - Alexandrovsk-on-Murman - was built in Catherine Harbor (where a naval base was supposed to be built).

The World War I strengthened the military-economic importance of the Arctic for Russia. The reason was the Barents Sea with its communications through which supplies of military equipment, ammunition and weapons were delivered from allied countries to Russia.

In June 1916, the foundation of the Arctic Ocean flotilla has started to secure allied cargo operations. Its operational base was first located in Aleksandrovsk, and then in Murmansk.

On September 20, 1916, the Russian Empire Ministry of Foreign Affairs sent a note to foreign countries [1].

Further, in 1924, the USSR People’s Commissariat for Foreign Affairs recognized and confirmed the provisions of the 1916 note by memorandum. There were no objections to the memorandum from the foreign powers.

Also, no other government disputed the Resolution adopted in April 1926 by the Presidium of the Central Executive Committee of the USSR ‘On declaring lands and islands located in the Arctic Ocean the territory of the USSR’.

In Soviet times, the Arctic study focused on the development of individual mineral deposits: prospects of economic and industrial development of the North, and their legislation were widely discussed. The Second World War increased economic and military significance of the Arctic once again.

Today, the number of states interested in getting an access to the Arctic resources is steadily increasing. As a result, the Russian Federation is facing with an increasing risk of national security.

The indispensable adherence to the provisions of agreements and treaties, relating to the aspects of arms limitation and strengthening of military confidence measures, should be a driving force for maintaining stability in interstate relations.

To date, in force are the following treaties and agreements governing the sphere of military relations in the territory of the Western Military District, of which Russian Arctic is a part:

1) Treaty on Open Skies (TOS) of March 24, 1992;
2) Treaty on Conventional Armed Forces in Europe (OSCE), came into force on November 9, 1992;
3) Global Exchange of Military Information (GMI) document, adopted on December 3, 1994;
4) Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, entered into force on February 5, 2011;
5) Vienna Document on Confidence and Security Building Measures (VD) of November 30, 2011.

Our country also has bilateral agreements with a group of states (Finland, Latvia) under the Vienna Document within the former Leningrad Military District and Kaliningrad Region borders.

The Treaty on Open Skies was signed on March 24, 1992 in Helsinki. To this day, 34 states are members of the Treaty. The Treaty gives the parties the right to fly over territories to monitor military activities, and establishes ways to exercise that right. The Treaty adoption was attributed to the obligations that the parties assumed in the framework of the Organization for Security and Cooperation in Europe.

In Russia, the State Duma validated the Treaty on Open Skies on 18 April 2001. A month later, on May 15, 2001 the Treaty was approved by the Federation Council, and then, On 26 May 2001, the President of the Russian Federation signed the Federal Law No. 57-FZ "On ratification of the Treaty on Open Skies". After Russia deposited its instrument of ratification, the Treaty on Open Skies entered into force in our country on 1 January 2002.

The main objectives of the treaty are: to contribute to confidence-building through openness in military activities; to facilitate the monitoring of existing and subsequent arms limitation agreements; and to contribute to conflict prevention and crisis situations. Also, the application of the Treaty on Open Skies is also envisaged in other areas, such as the protection and preservation of the environment [2].

In Europe, The Treaty on Conventional Armed Forces was signed in Paris on 19 November 1990 by 22 States Parties, 16 of which were members of the North Atlantic Treaty Organization and 6 states were members of the Warsaw Pact.

The Treaty has the following basic objectives: preventing the sudden use of military force or the threat of military force; prevention of military conflicts in Europe; establishing stability and security on the
continent; creating a safe and stable balance of forces in Europe; minimizing the ability of the participant countries to form offensive groups in order to organize large-scale hostilities [3].

For the Russian Federation the contract distribution area includes the whole territory to the west of the Ural Mountains.

On July 13, 2007, in connection with the circumstances that have an effect on the issue of national security of the Russian Federation and require an immediate action, The President Putin, On 13 July 2007, issued a Decree No. 872 "On Suspension by the Russian Federation of the operation of the Treaty on Conventional Arms and Related International Treaties" [1].

On March 10, 2015, the Russian Federation announced the suspension of its participation in the meetings of the Treaty Joint Consultative Group. After that, the Ministry of Foreign Affairs of the Russian Federation stated that the Treaty on Conventional Armed Forces in Europe announced in 2007 was fully suspended. At the same time, technically the Russian Federation remains a party to the Treaty.

The document "Global Exchange of Military Information" was approved on 3 December 1994 by the member States of the Organization for Security and Cooperation in Europe. The participating countries set forth that the document's provisions are politically binding and come into force on January 1, 1995.

The measures provided for in the document establish a mandatory exchange of data covering: conventional armed forces (air defence troops, ground forces, air force, navy) that are located anywhere in the world; information on conventional armaments and equipment in the following categories: airplanes, helicopters, battle tanks, armored combat vehicles, anti-tank guided missile launchers, self-propelled and towed artillery, submarines, surface combat ships, data on incoming equipment of these categories of national production and imported in the preceding calendar year; information on the personnel [4].

Of particular note is the Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed by the Presidents of the Russian Federation and the United States of America in April 2010, and entered into force on February 5, 2011.

The Treaty provides for a number of notable measures: Firstly, conducting Type 1 and Type 2 inspections at facilities of the Russian Federation and the United States of America with a strategic element; Secondly, exchanging data in accordance with the Protocol on Location, Storage and Number of Strategic Components and Stages of Media; Thirdly, exchanging telemetry data.

Type One inspections focus on submarine bases, and type Two inspections are carried out at test sites and at sites for storage, repair, and loading of submarine ballistic missiles. 38 sites are subject to inspection in the Russian Federation, 16 of which are of type One and 22 of type Two. 17 inspection sites are located in the Western Military District.

All sites are classified by types of the Armed Forces as follows: Strategic Missile Forces - 21 sites; Space Troops - 3 sites (in the Western Military District); Air Force - 3 sites; Roscosmos - 3 sites; the Navy has 8 sites, including 6 sites in the Northern Fleet.

As mentioned above, an Agreement between a group of Baltic states: Russia, Latvia, and Finland is valid in the territory of the Military District under the Vienna Document in addition to the reviewed treaties and agreements. An analysis of the inspections carried out within our country leads to the conclusion that the Russian Federation faithfully fulfills its obligations in accordance with the treaties reviewed.

The very first inspection in the Western Military District was carried out on September 5, 1991 near the village of Pechenga, Murmansk Region. Statistics for February 2008 indicate that a total of 324 inspections from 26 participating States were accepted [1].

36 foreign inspections took place in the Western Military District in 2012, including 7 inspections by the United States of America under the Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, 8 inspections by the Organization for Security and Cooperation in Europe under the Vienna Document, 21 foreign inspections under the Treaty on Open Skies.

A specific example of a foreign military inspection in the Arctic is the activities of the Republic of Finland inspectorate in assessing the 98th Mixed Aviation Regiment on October 15, 2014 in the city of Monchegorsk in Murmansk Region. The team arrived at St. Petersburg airport on October 14, 2014 and met a Russian escort group. Later that night, both groups reached Murmansk by plane and then arrived in Monchegorsk by bus. On October 15, the Finnish Inspectorate met the commander of the 98th Mixed
Aviation Regiment. The commander reported the inspection groups on the regiments' history, its mission and armaments.

The inspection visited the runway, the site in front of the hangar, the hangar itself and repair facilities. The group could freely inspect all the base facilities, medical unit, flight simulator, barracks, classes and storage depots. The inspection members talk with the soldiers about the tasks they were performing. No hidden objects were detected by the group in the process. The inspection activities were completed on October 15 and a two days cultural program followed in Murmansk and St. Petersburg. The inspectorate left the Russian Federation on October 17.

The official final report stressed: 'The group was struck by the admission to all premises of the aviation regiment and the opportunity to talk with its personnel. The escort team was professional, well trained. No photos were prohibited. The atmosphere of the visit was absolutely open.

Finland confirms that the Russian side fully complies with its obligations under the VD-11, providing all the required information on the armed forces and new weapon systems deployment plans!

Finland thanks the Russian Federation for the cooperation during the visit' [1].

The Vienna Document was accepted at the 91st plenum of the CSCE Forum's Ad Hoc Committee on Security Cooperation in Budapest on November, 28, in 1994 and was reissused at the 665th plenum of the Organization for Security and Cooperation in Vienna (Europe) on November, 30, 2011.

The provisions of the Vienna Document are aimed at building confidence, security and cooperation in Europe. The Treaty provides for: annual exchange of military information, which includes data on the organization of the armed forces from a brigade and above, their strength, information on types of weapons and their quantities; verification of the submitted military information; transit provision; military activity monitoring, and other measures of confidence in the military sphere [6].

On the basis of the foregoing, we can conclude that treaties adopted in the military sphere are workable. Their implementation sufficiently ensures the security and stability of the participating countries, helps to build confidence, and guarantees openness of military cooperation, including the Arctic region.

It should be noted that foreign inspectors of military units and compounds located on the Kola Peninsula showed a growing interest in training specifics and daily life of the military personnel in the Arctic.

The situation reflects relevance of this problem to military and political administrations of Arctic and Subarctic states.

The joint programs of the Northern Defense Cooperation (NORDEFCO), comprising Sweden, Norway, Denmark, Finland and Iceland, are actively developing.

It should be noted that, despite a proactive discussion of the increase in the Russian Arctic zone military sector, the leaders of other Arctic states are taking decisive actions aimed to increase the likelihood of the national armed forces use in the Arctic. The described situation demonstrates 'double standards' in geopolitics and emphasizes the need and importance of compliance with the international law in development process in the Arctic by all the participants.

In the current context of political, economic and legal pressure, further dynamic exploration of the northern territories, comprehensive development and protection of the Arctic coast, seas, and marine economic zones are of particular importance for the Russian Federation.

The scale of the tasks for the development of the Russian Arctic territories is enormous. There is a need for a combination of multifaceted interests of the Russian Federation and its constituent entities, municipalities, federal executive bodies, the executive authorities of the constituent entities of the Russian Federation and local self-government bodies. [6].

Also, in forming the administrative and legal regime of the Arctic zone it is necessary to take into account its inherent features. The difficulty, first of all, lies in the establishment of common for the entire Arctic zone of the Russian Federation regime conditions, which are complicated by the fragmented nature and chaotic nature of the corresponding legal regulation. Secondly, the need for legally equivalent consolidation of its borders is complicated by the territory location under the jurisdiction of several federal districts and federal ministries, which requires consideration of discrepancies in the regulation of similar legal relations by different constituent entities of the Federation and in solving local issues by local authorities [15].
Currently, the Arctic is becoming a core element in the state defense policy of the Russian Federation. Its military infrastructure and defense industries need to be improved and reinforced [14].

Many analysts call the country's northern coast a weakly protected territory in terms of defense. The Northern Sea Route, withal, is becoming increasingly demanded for the year-round international shipping [7].

The state Russian Arctic socio-economic development program for the period up to 2025 proclaims ensuring a favorable operational system in Arctic territories, including maintaining the necessary combat potential of General Forces and other troops, military units and bodies located in the region.[8].

In its turn, the State Program for Development of the Arctic Zone of the Russian Federation and National Security up to 2020 considers the Northern Sea Route as ‘Russia's single national transport highway in the Arctic’.

Subparagraph 'a' of paragraph 12 of the above-mentioned document provides for the expansion of 'the unified Arctic transport system of Russia as a national sea route oriented to year-round operation, including the Northern Sea Route and its meridional river and railway lines, as well as the airport system' [9].

The fact that the Northern Sea Route obtained a 'national' character deserves special attention. This is based on certain historical data confirming that the Northern Sea Route was mastered primarily by Russian navigators as a national shipping route, as it connected the indigenous ethnic peoples of the Arctic and the population of Arctic industrial centers with the mainland and was used for more than 100 years to ensure their livelihoods and economic development [10].

The Northern Sea Route development was slowed down by the beginning of the World War II, but soon after its end it was continued at an accelerated rate. From 1950 to 1970, atomic icebreakers Lenin and Arctica were built, followed by Moscow and Leningrad icebreakers, and other icebreaking vessels of a similar type. The Arctic ports were provided with new modern equipment, and the networks of polar stations and observatories were expanded [11].

The Northern Sea Route Administration was established in 1970 to supervise the rational use of the Northern Sea Route. The primary focus of the Administration is to organize Arctic shipping, ensure the safety of navigation and prevent pollution of the marine environment.

The Navigation Rules in the Northern Sea Route waters, approved in 2013 by the Ministry of Transport of the Russian Federation on the basis of the 'Code of Merchant Shipping of the Russian Federation', introduce essentially a permissive navigation procedure. The regulations stipulate that a shipmaster or a shipowner who plans to sail along the Northern Sea Route should send a sailing application to the Administration of the Northern Sea Route no less than 15 days before starting movement in this water area to obtain the necessary permission, which is given for a strictly defined period [12].

Each vessel navigating along the Northern Sea Route must comply with the special ice navigation requirements. These include: insurance, captain’s and his mates ice navigation experience, informing the Administration in 72 hours before approaching the borders of the Northern Sea Route, as well as daily notification of the vessel’s navigation status and its technical condition [13].

From a military perspective, the Northern Sea Route is gaining special importance for the Russian Federation. This is primarily due to the rich resources of the Arctic, since the center of tension and military conflicts most often concentrates in the areas of gas and oil production.

The location of Russian warships in the Arctic is an evidence of national geopolitical interests in this region. According to D. Rogozin, the struggle for natural resources by mid-century will take on a 'completely non-civilized forms' [12].

In 2012 and 2013, the Russian Federation demonstrated its readiness to defend its own interests in the Arctic by military means, by carrying out several campaigns of the Northern Fleet group of ships led by the Peter the Great heavy nuclear missile cruiser.

3. Conclusion
In modern conditions, the Russian Federation has to be prepared to counter possible territorial threats that may arise in the Arctic.

Immutable adherence to the provisions of agreements and treaties in the military sphere is the driving force for maintaining stability in the interstate relations.
To date, there are five main documents regulating the military sphere relations in the Western Military District (of which Russian Arctic is a part): Treaty on Open Skies (1992); 1994 Global Exchange of Military Information document (1994); Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (2011); Vienna Document on Confidence and Security Building Measures (2011).

Our country also has bilateral agreements with a group of states (Finland, Latvia) under the Vienna Document. The Russian Federation has to be prepared to counter possible territorial threats that may arise in the region as a whole.

The noted actions will allow the Russian Federation to resist any attempts to bring any elements of confrontation policy and military conflict to the Arctic, and to politicize interethnic cooperation in the region as a whole.

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