

IFLOS Maritime Talks 2015

Conference Report

by *Martin Fischer**

ARCTIC ISSUES WITH A SPECIAL FOCUS ON SHIPPING AND THE POLAR CODE

March 14th, 2015

At the International Tribunal for the Law of the Sea, Hamburg

On March 14th the International Foundation for the Law of the Sea (IFLOS), in cooperation with Bucerius Law School (BLS) and the Federal Maritime and Hydrographic Agency (*Bundesamt für Seeschifffahrt und Hydrographie*, BSH) invited to the 11th Maritime Talks at the International Tribunal for the Law of the Sea (ITLOS) in Hamburg. As in the past years, the conference was supported by the Edmund-Siemers-Trust (*Edmund-Siemers-Stiftung*) and the German Shipowners' Association (*Verband Deutscher Reeder*, VDR).

I. Welcome and Opening Addresses

H.E. Judge *Vladimir Golitsyn*, President of the ITLOS, welcomed the participants in his brief opening address. He gave a short introduction into the topic and mentioned that during his academic career and his engagement at the ITLOS he had been concerned for a longer time with arctic issues. With respect to his long lasting experience he pointed out that for the time being the main focus in arctic (or polar) issues has luckily turned from espionage-issues to shipping-issues.

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Following the President's introduction *Prof. Dr. Doris König*, Chair of the IFLOS, professor for public international law at BLS and judge at the Federal Constitutional Court welcomed and introduced the speakers and the audience on behalf of IFLOS. Besides giving an overview of the speakers and their professional background she also gave a brief overview of the Maritime Talks' topics during the past years, which included a variety of different issues such as e.g. green shipping, maritime security, piracy or the maritime labour convention.

II. Introduction and Overview: Current Legal Issues with Regard to an Increase of Maritime Transport in the Arctic – *Rüdiger Wolfrum*

Rüdiger Wolfrum, judge at the ITLOS had the honour to be the conference's first speaker. In his informative overview he indicated inter alia that the new adopted "International Code for Ships Operating in Polar Waters" (Polar Code) – as the name implies – "only" considers shipping issues, though in contrast *various* activities in the polar-regions are increasing. He clarified, that because the Polar Code contains both safety and environment related provisions, the Polar Code will be mandatory under both the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL). While during the increasing shipping in the Northern Sea Route especially the Arctic areas came into the public view, judge *Wolfrum* welcomed that the Polar Code explicitly contains both polar-regions.

III. Challenges for Shipping in the Arctic: Practical Issues – *Alfred Hartmann*

Following the legal issues and in the tradition of the Maritime Talks to unify different perspectives in a single forum, *Alfred Hartmann*, master of deep sea vessels and now member of the VDR gave an overview of the practical issues of arctic shipping. In his interesting inside-view to the practice of arctic shipping he clarified that – though technologies have developed and conditions have changed during the time – arctic shipping still primarily means shipping under very hard conditions and still is impossible for longer periods than three or four months p.a. Hence, arctic shipping e.g. in the Northern Sea Route is not yet very attractive to ship owners; various aspects, such as the infrastructural problems, the requirement of icebreakers, insurance-costs or the hard weather conditions still constitute an environment that wouldn't make arctic shipping in a large scale too attractive.

IV. The International Code for Ships Operating in Polar Waters (Polar Code): What Does it Mean for Ship Safety – *Anneliese Jost*

After a coffee break the floor was given to *Anneliese Jost* from the Federal Ministry of Transport and Digital Infrastructure and German representative in the IMO's Maritime Safety Committee. Ms Jost commented on the development of the Polar Code (which e.g. goes back on 22 years old outlines) and the IMO's involvement. Going into detail Ms Jost introduced some proposals concerning ship design, construction-details or equipment provided by the Polar Code. In view of the fact that ship-safety is an issue of broad international acceptance

she concluded that in spite of the necessity of further efforts ship-safety today “by experience works quite well”.

V. Developing Joint Approaches and Best Practices in the Arctic: The Role of the EU in Addressing Common Arctic Challenges – *Henning Jessen*

The day’s last panelist was *Henning Jessen*, Professor for public international law at the Maritime Law Institute of the University of Hamburg. In his speech he made some remarks on the EU’s role which – as he pointed out quite clearly – is a minor. Particularly with respect to the fact that Greenland is an entity that has left the EU and Norway has never been a member, Mr Jessen made clear that the EU is “not a real polar state”. Hence, the EU’s role is limited to political involvement in multilateral governance efforts; as “not a real polar state” the EU does e.g. not even hold the status of a permanent observer in the arctic council (apart of the membership of individual member states of the EU).

VI. Panel Discussion

Following the presentation of Mr Jessen, *Doris König* gave the audience the opportunity to address remaining questions or comments to the panellists and went about to lead the panel discussion which comprised different topics that had been treated during the day. *Tomas Heidar*, judge at the ITLOS, *Nele Matz-Lück*, Professor of the Law of the Sea and Co-Director Walther-Schücking-Institute for International Law at the University of Kiel, *Tilo Wallrabenstein*, Senior Legal Counsel at the VDR and *Anthony Amos Lucky* contributed with their questions and comments to an interesting debate which in addition to what had been stated so far, also involved aspects of liability, insurance-issues or training requirements for arctic seafarers.