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0521663113 - Protecting the Polar Marine Environment: Law and Policy for Pollution Prevention

Edited by Davor Vidas

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Protecting the polar marine environment

How can we best protect the polar marine environment against pollution? Leading scholars on environmental law, the law of the sea, and Arctic and Antarctic affairs examine this important question. To what extent do existing global instruments of environmental protection apply to the Arctic Ocean and the Southern Ocean? Can the arrangements adopted at regional, sub-regional and national levels provide adequate protection? This book examines and compares various levels of regulation in protecting the marine environment of the Arctic and Antarctic, with specific attention to land-based activities, radioactive waste dumping, and shipping in ice-covered waters. Recent developments since the establishment of the Arctic Council in 1996 and the entry into force of the Protocol on Environmental Protection to the Antarctic Treaty in 1998 are also discussed. This is a volume that will appeal to polar specialists and to all those interested in environmental law and policy.

DAVOR VIDAS is Director of the Polar Programme at the Fridtjof Nansen Institute in Norway, and a Senior Research Fellow at the Institute. His recent books include *Governing the Antarctic: The Effectiveness and Legitimacy of the Antarctic Treaty System* (with O. S. Stokke, 1996), *Arctic Development and Environmental Challenges* (1997), *Order for the Oceans at the Turn of the Century* (with W. Østreng, 1999) and *Implementing the Environmental Protection Regime for the Antarctic* (2000).

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LAW AND POLICY FOR
POLLUTION PREVENTION

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law, including *Polar Regions in International Law* (1996) and, with R. Davis, *Antarctic Environmental Protection: A Collection of Australian and International Instruments* (1997).

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Preface and acknowledgements

This book represents part of the final outcome of a three-year international research project, 'Polar Oceans and the Law of the Sea' (POLOS, 1996–8).¹ The POLOS project, which was directed by the editor of this book, sought to analyse global and regional solutions in the law of the sea and ocean policy as these relate to the Arctic Ocean and the Southern Ocean.

In addition to the Fridtjof Nansen Institute – which initiated the POLOS project in 1995 and coordinated it until its finalisation in December 1998 – experts from four continents participated in this project. Here it should be stated that, for those officials who took part in the project, their participation and the views expressed are in their personal capacity only.

This book has been written by a group of nine contributors, all prominent experts in their respective fields, from scholarly institutions located in six countries: Australia, Canada, Croatia, Norway, the United Kingdom and the United States.

In the course of the POLOS project, the research team met once each year for project workshops, where various drafts for the book's chapters were discussed. Along with acknowledging the contributions made by participants in the project, a special acknowledgement is also due to the institutions which provided venues for the workshops: in 1998, the Inter-University Centre in Dubrovnik, Croatia; in 1997, the Fridtjof Nansen Institute at Polhøgda near Oslo, Norway; and in 1996, the Antarctic Cooperative Research Centre at the University of Tasmania in Hobart, Australia. In connection with these arrangements, I especially wish to extend my gratitude to several persons who provided hospitality and organisational help: for the 1998 workshop, *hvala* to Berta Dragičević, Srećko Kržić and Dubravka Kapetanić; for the 1997 workshop, *takk* to Jan Magne Markussen, and to Willy and Sonja Østreng; and for the 1996 workshop, *thanks* to Bruce and Rosalie Davis, and to Richard and Twila Herr. Moreover, on the occasion of the 1996 workshop held in

¹ Another book, titled *Governing High Seas Fisheries: The Interplay of Global and Regional Regimes* and edited by Olav Schram Stokke, is forthcoming by the Oxford University Press.

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Hobart, His Excellency the Governor of Tasmania Sir Guy Green hosted a seminar on the polar oceans and law of the sea, attended by the project research team and several leading Australian/Tasmanian policy-makers and experts on Antarctic affairs. In connection with this arrangement, Sir Guy honoured the project team with his kind hospitality at Government House; and so did, jointly, the Minister and Shadow Minister for Antarctic Affairs of Tasmania, the Honourable Peter Hodgman and the Honourable John White at Parliament House.

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Funding for the POLOS project and for the editing of this book was provided by the Research Council of Norway and by the Fridtjof Nansen Institute, whose support is gratefully acknowledged.

Let me add that none of the above-mentioned individuals or organisations is responsible for any shortcomings of this book. Although the individual

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Preface and acknowledgements

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authors bear the responsibility for own chapters, the editor alone is answerable for the book as such. If the reader should find satisfaction and enrichment in the pages that follow, then of course all those concerned deserve a measure of credit.

The book is up to date as of 8 June 1999.

DAVOR VIDAS

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List of abbreviations

AAT	Australian Antarctic Territory
ACOPS	Advisory Committee on Protection of the Sea
AEPS	Arctic Environmental Protection Strategy (1991)
AFZ	Australian Fishing Zone
AMAP	Arctic Monitoring and Assessment Programme
AMEC	Declaration on Arctic Military Environmental Cooperation (1996)
ARPA	(United States) Arctic Research Policy Act (1984)
ASMA	Antarctic Specially Managed Area
ASOC	Antarctic and Southern Ocean Coalition
ASPA	Antarctic Specially Protected Area
ASPPR	(Canadian) Arctic Shipping Pollution Prevention Regulations (1978, 1991)
ATCM	Antarctic Treaty Consultative Meeting
ATS	Antarctic Treaty System
AWPPA	(Canadian) Arctic Waters Pollution Prevention Act (1970)
AWPPR	(Canadian) Arctic Waters Pollution Prevention Regulations (1978)
Basel Convention	Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989)
BAT	best available techniques
BEAR	Barents Euro–Arctic Region
BEP	best environmental practices
CAGIO	Circumpolar Advisory Group on Ice Operations
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources (1980)
CCAS	Convention for the Conservation of Antarctic Seals (1972)
CEE	Comprehensive Environmental Evaluation
CEP	Committee for Environmental Protection
CFR	(United States) Code of Federal Regulations

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List of abbreviations

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CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)
CLC	International Convention on Civil Liability for Oil Pollution Damage (1969)
COMNAP	Council of Managers of National Antarctic Programmes
CRAMRA	Convention on the Regulation of Antarctic Mineral Resource Activities (1988)
CZMA	(United States) Coastal Zone Management Act (1972)
EEZ	exclusive economic zone
EIA	environmental impact assessment
Environmental Protocol	Protocol on Environmental Protection to the Antarctic Treaty (1991)
EU	European Union
FAO	Food and Agriculture Organisation
Fund Convention	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971)
GPA	Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities (1995)
HNS Convention	International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1996)
IACS	International Association of Classification Societies
IAEA	International Atomic Energy Agency
IAPG	Interagency Arctic Policy Group
ICJ	International Court of Justice
ICJ Reports	International Court of Justice, <i>Reports of Judgments, Advisory Opinions and Orders</i>
IEE	initial environmental evaluation
IGPRAD	Inter-Governmental Panel of Experts on Radioactive Waste Disposal at Sea
ILM	<i>International Legal Materials</i>
IMO	International Maritime Organisation
INSROP	International Northern Sea Route Programme
ITLOS	International Tribunal for the Law of the Sea
London [Dumping] Convention	Convention for the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)
LOS Convention	United Nations Convention on the Law of the Sea (1982)
LRTAP	Convention on Long-Range Transboundary Air Pollution (1979)
MARPOL 73/78	International Convention for the Prevention of Pollution from Ships (1973), as modified by the Protocol of 1978

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MEPC	Marine Environmental Protection Committee (of IMO)
MMS	(United States) Minerals Management Service
NATO	North Atlantic Treaty Organisation
NSF	National Science Foundation
NSR	Northern Sea Route
NSRA	Northern Sea Route Administration
NSR Guide	(Russian) Guide to Navigating Through the Northern Sea Route (1995)
NSR Regulations	Regulations for Navigation on the Seaways of the Northern Sea Route (1990)
OCS	outer continental shelf
OCSLA	(United States) Outer Continental Shelf Lands Act (1953)
OECD	Organisation for Economic Cooperation and Development
OILPOL	International Convention for the Prevention of Pollution of the Sea by Oil (1954)
OPA	(United States) Oil Pollution Act (1990)
OPRC	International Convention on Oil Pollution Preparedness, Response and Cooperation (1990)
OSPAR Convention	Convention for the Protection of the Marine Environment of the North-East Atlantic (1992)
OTA	(United States) Office of Technology Assessment
OWG	Outside Working Group of technical experts (under IMO)
PAME	Protection of the Arctic Marine Environment Working Group
PCB	polychlorinated biphenyl
Polar Code	(Draft) International Code of Safety for Ships in Polar Waters
POP	persistent organic pollutant
RPA	Regional Programme of Action for the Protection of the Arctic Marine Environment from Land-Based Activities (1998)
RSNT	Revised Single Negotiating Text
SOLAS	International Convention for the Safety of Life at Sea (1974)
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (1978)
St.meld	<i>Stortingsmelding</i> (Norwegian Government Report to the <i>Storting</i>)
TOVALOP	Tanker Owners' Voluntary Agreement Concerning Liability for Oil Pollution (1969)
UN	United Nations
UNCED	United Nations Conference on Environment and Development (1992)
UNCLOS III	Third United Nations Conference on the Law of the Sea (1973–82)
UN/ECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme

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UNIDO	United Nations Industrial Development Organisation
UNTS	<i>United Nations Treaty Series</i>
USAP	United States Antarctic Research Program
USC	United States Code
USCA	United States Code Annotated