Introductory Remarks. Arctic Law: The Challenges of Governance in the Changing Arctic

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ARCTIC LAW: THE CHALLENGES OF GOVERNANCE IN THE CHANGING ARCTIC

This panel was convened at 10:45 am, Friday, April 5, by its moderator, Austen Parrish of Southwestern Law School, who introduced the panelists: Betsy Baker of Vermont Law School; Suzanne Lalonde of the University of Montreal; Peter Oppenheimer of the National Oceanic and Atmospheric Administration; and Don Rothwell of the Australian National University.

INTRODUCTORY REMARKS BY AUSTEN PARRISH

Good morning and welcome to our panel discussion on Arctic Law. Before we begin, a thank you to the Program Committee, the conference organizers, and the International Environmental Law and the Rights of Indigenous Peoples Interest Groups for hosting this panel. For an Annual Meeting focused on International Law in a Multipolar World, it seems particularly apropos to have a panel dedicated to one of the polar regions.

The panel’s topic is an important one. Tremendous changes are occurring in the far North that implicate key questions for international law and international environmental governance. The Arctic is now the center of a number of international legal and political disputes: energy security, natural resources, and environmental degradation; climate change and its impact on indigenous populations; the remaking of global trade routes; and the delineation of the continental shelf. Degradation of the Arctic environment is particularly a concern as sea ice rapidly diminishes. The concerns have become more pronounced as shipping, tourism, and oil, gas, and mineral extraction activities increase, and as the effects of climate change, including ocean acidification, become better understood. The quickly receding polar ice has also spurred the eight Arctic circumpolar nations and other groups to more closely examine existing governance structures.

While cooperation among nations and other groups interested in the Arctic has been considerable, a question remains whether the emerging structure of international environmental governance is capable of responding well to the challenges of the region. Are there gaps in the current Arctic environmental governance regimes? And, if so, how best are those gaps filled? What steps have been taken already?

We are extremely fortunate to have a panel of leading experts who bring diverse perspectives—both from the government and the academy, and from Australia, Canada, and the United States—to tackle these questions. Panelists will describe the role of the Arctic Council and its future work and priorities, as well as the work of other key organizations and actors that are struggling to address issues of conservation, management, and governance of Arctic resources. The panel also intends to explore the inter-treaty linkages in the Arctic that form a foundation for environmental governance, and will touch upon the unique environmental and human rights issues facing the indigenous populations. As you will see, the panelists have differing perspectives on how various international legal mechanisms have helped (or perhaps hindered) the evolution of Arctic environmental governance.

We will begin with each speaker making a brief statement. After those statements, the panelists will discuss and debate key questions related to Arctic environmental governance, and finally we will open the discussion to include the audience. We are fortunate that many

* Professor Lalonde and Mr. Oppenheimer did not contribute remarks to the Proceedings.
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in our audience bring considerable expertise in Arctic matters and international law. I’m pleased to see in the audience’s first row Hans Corell, former Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations; Alan H. Kessel, Legal Adviser to the Canadian Department of Foreign Affairs and International Trade; Ashley Roach, formerly of the Office of Legal Advisor of the U.S. Department of State; and Timo Koivurova, Director of the Northern Institute for Environmental and Minority Law, Arctic Centre/University of Lapland, among many others. We will be sure to provide time for their comments and observations.

Our first speaker is Donald R. Rothwell. Don is a professor of international law and Head of School at the Australian National University’s College of Law, where he has taught since 2006. His research has a specific focus on the law of the sea, and the law of the polar regions. In addition to a number of other well-known publications, Don is the coordinating editor of the *Oxford Handbook on the Law of the Sea* (forthcoming 2015).

The second speaker will be Peter Oppenheimer, who is the Chief of the International Section of the National Oceanic and Atmospheric Administration’s Office (NOAA) of General Counsel. NOAA is a federal agency that is part of the U.S. Department of Commerce. Peter serves as the legal advisor to the U.S. delegation to the Arctic Council’s Working Group on the Protection of the Arctic Marine Environment.

Following Peter will be Suzanne LaLonde. Suzanne is a professor of international law at the Law Faculty of the University of Montreal and a researcher associated with the ArcticNet network in Canada and the Geopolitics in the High North Program in Norway. A prolific and leading Canadian scholar on Arctic issues, she has traveled the Canadian and Norwegian Arctic.

Our fourth and final speaker will be Betsy Baker. Betsy is a professor at Vermont Law School. Ever since sailing the Arctic in 2008 and 2009 on the U.S. Coast Guard icebreaker *Healy*, Betsy has focused her research on Arctic law, including the regulation of offshore oil and gas activity. She currently co-leads the Arctic Council Ocean Review Phase II project. She is on leave this year at the U.S. Department of State, working with the inter-agency task Extended Continental Shelf force in the office of Ocean and Polar Affairs.

With that brief introduction, please join me in warmly welcoming our panelists and let me give the floor to Professor Rothwell.

**THE LAW OF THE SEA AND ARCTIC GOVERNANCE**

*By Donald R. Rothwell*

Arctic governance has been the subject of much analysis over the past five years at a time when the Arctic Council has become more proactive in dealing with a range of Arctic issues and beginning to sponsor new Arctic agreements. This has also been a time when the spotlight has increasingly focused on the Arctic due to the impact of Arctic ice melt and the flow on consequences this creates not only for Arctic shipping but also the increased accessibility that it provides for the Arctic with respect to all forms of resource development, especially onshore and offshore oil and gas. During this period there has also been ongoing debate as to the adequacy of the existing Arctic governance arrangements. Contrasts have been drawn between the Arctic and the developed legal regime that exists in Antarctica. Consideration has been given to whether there is the need for an “Arctic Treaty”; not in the mirror image

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