Can anyone really own a melting “land” of ice and snow?

By Stephen Kimber

North of 66 The Arctic Circle is more of an approximation than a fixed location. Thanks to tidal forces and lunar influences, its latitude (66°33′46.3″ as of July 22, 2016 according to Wikipedia) is reportedly drifting north by approximately 15 metres annually.
Who owns the Arctic?

There was a time when the answers to that question were simpler. Which was a time when the answers didn’t matter all that much. Now they do. And the answers are suddenly anything but simple.

Let’s start with the basics. The north pole, which is frozen water rather than frozen land, doesn’t belong to any state, although a number, including Canada, claim it for themselves.

If you look down at the northern curve of earth from a satellite’s eye view, you’ll see five countries — Russia, Canada, the United States, Norway and Denmark (thanks to Greenland) — with northern borders nudging up into the 14-million square kilometres that is the Arctic Circle frontier.

Thanks to the 1982 United Nations Law of the Sea treaty, each of those five countries automatically controls an area of 200 nautical miles beyond their northernmost shoreline. Countries can extend their jurisdiction up to another 150 nautical miles if they can prove their underwater continental shelf extends beyond that 200-mile boundary.

Sounds (sort of) simple until you realize much of that undersea seabed has yet to be fully explored and mapped, so we don’t really yet know who is ultimately legally entitled to claim what’s up (and below) there.

If the math, geography and geopolitics create overlapping jurisdictions (Canada versus Greenland, Canada v. Russia, Canada v. the U.S.A., the U.S.A v. Russia?), the treaty sets out a mechanism to settle such disputes through a separate United Nations tribunal. Except there’s another wrinkle.

Since the United States never signed on to the Law of the Sea, it can’t go to the tribunal, and must negotiate directly with its territorial rivals.

So far, no dispute has made it to the tribunal — even though many countries, including Canada, already claim territory that’s also claimed by others. In the last two years, in fact, Russia filed a claim for an additional 1.2 million square kilometres and the Danes laid claim to 900,000 more. In both cases, some of their new claims overlap with our own.

Occasionally, all the Arctic sovereignty one-upmanship seems slapstick.

In the 1980s, for example, when members of Denmark’s military visited Hans Island, a barren, 1.3 kilometre-long outcropping of rocks on the border between self-claimed Canadian and Danish turf, they planted their country’s flag in the rocks and left a bottle of Schnapps to prove their patrimony.

In 2005, Canada’s military staged its own Operation Frozen Beaver — yes, really! — replacing the Dannebrog flag with our Canadian maple leaf forever, and the Schnapps with a 40 of Canadian Club, then left an Inukshuk and a this-is-ours plaque for good measure.

In 2007, a team of six Russian explorers descended 14,000-feet to the north pole sea floor in two submersibles to plant a one-metre-high Russian flag on the oil-and-gas-rich 2,000-kilometre Lomonsov Ridge, an underwater mountain range that runs from Russia’s New Siberian Islands to Canada’s Ellesmere Island. You won’t be surprised to know that this Russian-claimed territory is also claimed by both Canada and Denmark.

The then-Harper government — whose “Canada First” defence strategy prioritized the Arctic — immediately recognized a Russian affront and raised it one Canadian notch by pledging to construct a (still under-construction) deep sea port at Nanisivik on northern Baffin Island. The port would serve as a base for our (also still under construction) fleet of Arctic offshore patrol vessels and show those Ruskies just who owns the true north strong and Canadian. To

Shots over Hans Island

Little more than a 1.3 km² rock situated in the Nares Strait between Ellesmere Island and Greenland, Hans Island is nevertheless a strategic asset in the debate over Arctic assets. Canadian and Danish military forces have been known to exchange shots over the island to assert territorial ownership. In past visits, each group has planted their national flag and a bottle of alcohol as proof of sovereignty. Denmark’s reported weapon of choice is Schnapps; Canada’s is Canadian Club.
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emphasize the Arctic’s importance to our future, Harper himself began making annual photo-opportunity pilgrimages there.

All of this might be little more than entertaining political-sideshow theatre, except for one inescapable reality: global warming. Climate change is happening faster and more intensely in the Arctic than anywhere else. Thanks to the region’s twice-the-rest-of-the-world warming rate, Arctic summer sea ice is projected to disappear within a generation, if not sooner. That could be — will be — globally calamitous. The melt will raise sea levels, accelerate warming, interfere with the moderating effects of the Gulf Stream, put wind in the sails of rogue storms and weather events, wipe out existing northern fisheries, wreak havoc on the delicate Arctic eco-system and otherwise change everything about everything, creating new challenges and opportunities that will make the answer to our initial question — who owns the Arctic — even more questionable.

When the summer ice does disappear, commercial shippers will suddenly have a new and potentially 40-per-cent-shorter route through the Northwest Passage from Asia to North America’s huge east coast American marketplace. According to the Globe and Mail, China’s government has already published a 365-page charts-and-instructions “operating manual” for cargo operators planning to sail across the top tip of Canada.

As Rob Huebert, a University of Calgary professor and Arctic legal expert put it, such northern shipping would pose "the biggest direct challenge to Canadian sovereignty" in waters we claim as our own "internal waterway." But even our claim is in dispute. The United States argues the Northwest Passage is an international strait with rights of "transit passage," and once unilaterally sent its own ship through the passage to prove it. But no matter who theoretically owns it, the reality is that the Passage remains a beyond-our-resources-to-manage, twisty, shift, treacherous waterway, an environmental disaster in waiting.

Yes, Virginia, it is complicated. And then it gets worse. This

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Artika 2007 was a Russian expedition to test the workability of deep-water, under-ice submersible operations. As part of the mission, they placed a Russian flag on the sea floor of the Lomonosov Ridge — in an area also claimed by Canada and Denmark.
Problematic — in legal terms — doesn’t begin to describe the looming battles over how to divvy up, develop and/or protect the Arctic’s untapped undersea resources.

summer, more than 1,000 passengers, each paying north of $25,000-Canadian, got the opportunity to gawk at the plant-and-animal-disappearing, climate-changing Northwest Passage from the luxury decks of the Crystal Serenity during a cruise from Anchorage, Alaska, to New York. Arctic legal scholar Michael Byers of the University of British Columbia calls this “extinction tourism.” Operators will make a profit showcasing “animals before they disappear. I find that extremely problematic.”

Problematic — in legal terms — doesn’t begin to describe the looming battles over how to divvy up, develop and/or protect the Arctic’s untapped undersea resources. By some estimates, 13 per cent of the world’s potential oil reserves and 30 per cent of its gas are hiding under northern ice. That’s not even counting deposits of gold, diamonds, nickel and other minerals. Canada’s share of all that could be more than $20 trillion.

While we don’t currently have the safe, sophisticated technology to tap into those resources and while falling energy prices has taken some of the urgency out of energy supply discussions, there is no question those resources will one day be in play — and questions will need to be answered about who owns them and what rules will govern their extraction.

Which may explain why countries with Arctic borders are busily staging ever more showy military exercises to back their claims to the land beneath the seas. And why more and more conferences are being organized to discuss and debate what to do next.

Next month in St. John’s, for example, the Maritime and Arctic Security and Safety Conference will stage “Converging Interests,” a two-day (October 27–28) gathering of national and international northern development experts. The focus will be on promoting “stakeholder collaboration, technological innovation, harsh environment research and development and world-class education efforts.”

The immediate Canadian decisions about what to do next are in the hands of new Prime Minister Justin Trudeau. He was only six years old when he first traveled to the north pole during his father’s official visit. “Everybody knows that the north pole is in Canada,” the new prime minister joked during a post-election town hall.

But who owns it? That is still the question. •

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