Who Owns the Arctic?

On last July, 2009, with the Russian flag planting and Canada promising to build military bases, the race for the Arctic has begun in earnest.
Not since 1925, when local hero Roald Amundsen set off from here on his first attempt to fly over the North Pole, has there been so much excitement in Tromso, a picturesque port that has long been used as a staging area for Arctic exploration.
The story began early this year when an expedition led by Russian lawmakers used a miniature submarine to plant a Russian flag on the seabed 2 miles under the North Pole, symbolically staking a claim to the vast mineral and energy wealth that lies under the ice cap.
That ruffled feathers in Canada, another country with Arctic ambitions. "*This isn't the 15th Century*," scoffed Foreign Minister Peter McKay, referring to a time when explorers claimed whole continents for God and king.

But a week later, Prime Minister Stephen Harper visited Canada's far north and announced plans to build two military bases in its polar regions. And now two more claimants to the Arctic seas, the U.S. and Denmark, have launched their own polar mapping expeditions.
The Danish team set sail from Tromso in August 2009, while the American icebreaker Healy departed from Barrow, Alaska, a week later.
The flurry of activity recalls the heyday of polar expeditions a century ago when Robert Peary, Richard Byrd, Robert Scott, Amundsen and others raced to be the first to the Arctic and then the Antarctic.
But as the latter-day scramble for strategic resources beneath the ice begins to heat up, Norway, a country with deep Arctic roots both physical and psychological, takes the long view. The Norwegian government has emphasized the need to structure a long-term system of international governance for the polar regions; its scientists and researchers are calling for cooperation rather than competition.

Concerning the Russian flag planting, it does mean a thing, it does confirm what we knew in advance, that the Russians are very interested in the polar region.
The reason is no secret. The U.S. Geological Survey estimates that about a quarter of the world's undiscovered oil and gas lies beneath the Arctic's waters.
Until recently, these deposits were thought inaccessible. But as the polar ice cap succumbs to global warming more quickly than expected and with new subsurface pumping technologies coming online, some experts believe the Arctic could go into production in a generation.
While there is some uncertainty about the causes of climate change, the fact that it is occurring is not in dispute, especially in the polar regions, where temperatures are rising at double the rate of those in more temperate latitudes, and the ice cap is melting three times faster than anticipated.
What this means, according to a UN climate survey published earlier this year, is that the polar ice cap will no longer be a year-round phenomenon, and the world is likely to have a new navigable ocean in about 2030-2050.
Going over the top would shorten the sea route between the Far East and Western Europe by a third. A major realignment of the world's shipping lanes would result. Fish stocks also would migrate north, bringing fishing fleets.
All of this would bring profound change to Norway, a small nation of 4.5 million people that tends to think of itself as an isolated country on the northern periphery of Europe. Suddenly, it would find itself thrust into the thick of things.
For Norwegians, the Arctic has always been an important part of their national identity and patrimony. Exploring the Arctic was part of Norwegian history.

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On his recent tour of Canada's Arctic region, Prime Minister Harper declared that "Canada's new government understands that the first principle of Arctic sovereignty is: Use it or lose it." Canada's claims include sovereignty over the Northwest Passage sea lanes, a potential source of disagreement with the United States.
The "*use it or lose it*" philosophy is something Norwegian governments have always understood.
Norway's strategy to protect its claim is to be present. Presence is used to research, develop and harvest the Arctic but also to be there on the sea, with the coast guard, to take pirate fishing very seriously and when it comes to oil and gas, to be there at the negotiating table, with the scientific proofs.
For Norway, the elephant in the room is actually a bear. Norway shares a 120-mile Arctic border with Russia, and the Norwegians learned long ago that you don't poke the Russian bear in the eye.
Which explains, in part, Norway's studied non-reaction to Russia's underwater flag-waving.
"*The Russians are doing what the UN asked them to do, they are substantiating their claim. It's in compliance with international law and the commission will decide if they are right or wrong,*" said Liv Monica Stubholt, Norway's deputy minister for foreign affairs, referring to the UN's Commission on the Limitations of the Continental Shelf, a body of scientists that reviews claims to territory beneath the sea.
In the Arctic, the key dispute is whether the Lomonosov Ridge, a vast underwater mountain range stretching across the North Pole, is an extension of Russia's continental shelf, or a part of Greenland, which belongs to Denmark.
Rather than point fingers at Russia, Norway would prefer to see the U.S. Senate ratify the 13-year-old UN Convention on the Law of the Sea, which would give the U.S. a seat on the commission and a stake in a non-belligerent resolution of the competing claims.
Ratification has been blocked by a line of conservative lawmakers going back to former Senator Jesse Helms, (R.-N.C.) and today led Senator James Inhofe (R.-Okla.). They fear that signing the treaty would cede too much control to the UN.
But the problem is that if the U.S. doesn't sign the treaty soon, they will be put aside when the decisions are taken. Expectations are that rule of international law will prevail in coming battles over Arctic sovereignty, but what about that other law, with something about nine-tenths in it and with five countries in competition for the control of Arctic ?

For the Canada, with precious little ability to enforce its claims in the Arctic, Canada may be falling behind in asserting itself not in law, but in real life.
Others think cases where conflicts are already apparent, Canada and Denmark have claims to the same continental shelf as Russia, even if we don't precisely know where those claims lie, render the commission irrelevant.
But the commission cannot deal with information presented where there is a conflict, because it has simply no power to decide, so like other ocean boundary disputes, it will ultimately come down to some level of negotiation and mostly political negotiation.
In these cases, power may, in the end, trump international law in determining who gets what in the Arctic, but power means the ability to keep other people out.
I don’t think there would be war, but the concern is that Russia has a head start, and it's got a lot of ships that can operate in the Arctic. Canada has very few.
Canada will needs urgently heavy-duty icebreakers, not the smaller vessels the government has promised to the navy, to properly assert its sovereignty in the Passage, but also to properly research its claim to the Arctic seabed.
Foreign minister Peter MacKay was indeed correct when he said of Russia’s provocative flag planting in the North Pole’s sea bed that, “*This isn’t the 15th Century.*”
He was suggesting that in our modern, more civilized world, codified by international law, and not antediluvian games of finders-keepers, will decide claims of geographic ownership.
And Russia, a sophisticated player in global diplomacy, has made statements in the past that it couldn’t agree more. But then MacKay's Russian counterpart, Sergei Lavrov, said he was

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amazed by Canada's response. And he told to Russian Media "*We're not throwing flags around. We just do what other discoverers did.*"
Most experts believe that international law, in the form of the United Nations' Convention on the Law of the Sea, will play an integral role in figuring out the unfolding conflict in the Arctic. But don't count out the intrepid explorers and the kind of de facto international law they practised. In spite of the convention, some believe it's possible for countries to operate in a manner predating international law, or to ignore whatever decisions may flow from it.

The story of the Arctic is still one of the future. Currently, it's a frozen hinterland, but with the polar ice caps melting, some predictions have it opening up to serious exploration and economic exploitation within 30 years. And the U.S. Geological Survey estimates that 25 per cent of the world's undiscovered oil and gas remains locked up deep beneath the frigid waters.
It's striking that the confluence of high energy prices and melting has created a vast new area that countries are going to have to fight over, not necessarily in a military sense, but they will struggle over this area, and we haven't had a situation like this for quite a long time.

One of the main struggles will be over the 1,800-kilometre-long Lomonosov Ridge between Siberia and Canada's Ellesmere Island. Russia believes the ridge belongs to it, and therefore so does the North Pole. Its dramatic submarine dive in the Arctic on August, the first to reach the polar sea bottom and carried out by Russian scientists, was to prove that fact.
The next step will be for Russia to submit its scientific findings to a UN commission of geological experts struck to review any country's claim to the sea bed far beyond its borders, a continental shelf.
These procedures were set out in the 1982 Law of the Sea Convention, regarded as one of the most important pieces of international law, governing the use of our vast oceans and their rich resources.
For many centuries, the seas belonged to no one. Except for a narrow band around a nation's coastline, the high seas were a free-for- all. But growing concerns over foreign fishing vessels and pollution, and knowledge of the rich mineral and oil wealth under the sea floor, changed everything.
In 1945, U.S. President Harry Truman unilaterally tossed aside the freedom-of-the-seas doctrine and proclaimed exclusive ownership of its huge continental shelf. Other countries, including Canada, soon followed, asserting control over waters sometimes hundreds of kilometres beyond their borders. By the 1950s, oil drilling on the ocean floor was rapidly expanding.
The Law of the Sea eventually gave legal status to navigational rights, resources, marine protection and territorial sea limits, as well as a way to settle disputes. It established a generous "*exclusive economic zone*" for coastal states, extending 320 kilometers from their shorelines. But potential riches, from gas and oil to diamonds and gold, didn't always stop there. States realized continental shelves would need to be accounted for.
A process to submit claims to these extensions and a commission to evaluate them and make recommendations was set up. Russia made the first claim, in 2001, followed by Brazil and six other countries. The most recent was France earlier this year. Canada has yet to make its claim. How that process will play out remains anyone's guess, because no claim has yet been resolved.
For those countries, the Law of the Sea is a good news story in terms of the rule of law and of multilateral cooperation in a situation where one of the alternatives is a military contest over resources, which is the last thing any sane person from a less powerful country would want. International law is what protects our interests most of the time.
But the conflict over the Arctic involves only those areas where nations' continental shelves may overlap, perhaps less than 10 per cent of any claims made or yet to come, in fact the treaty is steeped in science, along with the expertise of the commission, will lend the whole process legitimacy and compel countries to accept the commission's recommendations.

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But even if it's all about science, this won't be an *exact* science. Countries will, for instance, try to justify ownership over the same seabed.
And we can be sure that the Russians are going to make the most extensive claim possible, and it will be based on an interpretation of the scientific evidence that is as favourable to them as possible.
International law allows for disputes to be adjudicated through a special Law of the Sea Tribunal. But Canada and Russia, in ratifying the treaty, both declared they would opt out of being compelled to send a dispute over maritime boundaries to the tribunal. It could be years before nations reach that stage. Canada is still gathering details for its submissions to the UN. Countries have just ten years after ratifying the Law of the Sea to submit claims. For Canada, this means 2013.
Meanwhile, Russia isn't wasting a moment. It has capitalized on its stable of useful vessels, nuclear-powered icebreakers for instance, to show that it is serious about the north. "*The Arctic always was Russian, and it will remain Russian,*" expedition leader Artur Chilingarov said on august, 2009.
So why do Russian drop their flag at the North Pole?
Let’s take it as a signal that they're going to claim this regardless of what the UN commission is going to say sometime in the future. In other words, states could ignore the UN commission or simply not comply with their international legal obligations. Usually they make a legalistic argument, which may be implausible, but they make it anyway and go ahead and do whatever they want to do.
So it is appears that Russia's flag caper less benign than most, reflective of a more "aggressive" Russia, seeking to reclaim through energy dominance the global stature once held by the Soviet Union.
If the ice cap continues to melt and energy prices keep rising, Russia will send more and more ships into the Arctic. Eventually, they will define an area, maybe what they've claimed already, maybe less, and they will proclam this is our water, and come up with an excuse, such as the Eurasian continent extends below this, and we'd be happy to sell licences to extract oil and gas."
Planting a flag could be more important than we think, says Robert Miller, an expert in the "*Doctrine of Discovery,*" which started with Pope Nicholas V in 1455 and was used by New World explorers to lay divine right over land for European Christian societies.
"*There are definitions in the treaty, and Russia is trying to prove that the ridge runs to the North Pole. That's outside the parameters of the Doctrine of Discovery,*" says Miller, who teaches at the Lewis & Clark Law School in Portland, Oregon. "*But look at how Russia is dotting its and crossing its by planting a flag. If they can't win this, they're doing what lawyers do all the time: try to prove it in a different way. They could say, `we were the first to have planted a flag on the seabed.*'
The treaty supplemented the Doctrine of Discovery,it didn't replace it. The idea of planting flags and showing up every now and then, say at a deserted island, to show you exert control is called "*effective occupation.*" And Canada has already done this, with Hans Island in the Arctic, whose ownership it disputes with Denmark.
Some experts suggest that while control of an area used to occur before sovereignty was established, today sovereignty over an area must be established by international law before taking control. Law may be supreme on paper, but there's something to be said for the old behaviours. That's why there are growing calls for the government to do more to assert Canadian sovereignty in the Arctic.
Aside from continental-shelf claims, the Northwest Passage, which links the Atlantic and Pacific, is of primary importance for this country. As the climate warms, the ice pack preventing shipping could open up a much quicker route from Europe to China.
Canada considers the Passage to be inland waters. Other nations, including the U.S., say it is part of the high seas, and want free access.
Canada will needs heavy-duty icebreakers, not the smaller vessels the government has promised to the navy, to properly assert its sovereignty in the Passage, but also to properly research its claim to the Arctic seabed.

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One solution, may be for Canada and the U.S. to work together to counterbalance Russian designs on the area, Canada with its knowledge, the U.S. with its financial capacities and military power. The important question for Canada and the U.S. is, how much effort do they want to start making in order to limit what Russia can get away with?

The Russians are leading a new "*gold rush*" in the high north, with a bold attempt to assert a claim to oil, gas and mineral rights over large parts of the Arctic Ocean up to the North Pole.
Russia's most famous explorer, Artur Chilingarov, complete with nautical beard, led the expedition to plant the Russian flag in a capsule on the ocean seabed under the pole itself.
"*The Arctic is Russian,*" Chilingarov said and "*We must prove the North Pole is an extension of the Russian coastal shelf.*"
Russia is claiming that an underwater mountain known as the Lomonosov Ridge is actually an extension of the Russian landmass. This, it argues, justifies its claim to a triangular area up to the pole, giving it rights under the United Nations Law of the Sea Convention.
Under Article 76 of the convention, a state can claim a 200 nautical mile exclusive zone and beyond that up to 150 nautical miles of rights on the seabed. The baseline from which these distances are measured depends on where the continental shelf ends.
Russia lodged a formal claim in 2001 but the UN's Commission on the Limits of the Continental Shelf told it to resubmit the claim. The flag-planting can be seen as a symbolic gesture in support.

At the same time, other states are acting to protect their own interests in the Arctic, like Canada, USA, Denmark, Norway and Russia
Canada is planning to build up to eight new patrol ships and the US Congress is considering a proposal to build two new heavy polar ships.
The rush for the Arctic has become more frenzied because of the melting of parts of the polar ice cap, which will allow easier exploration, and by the urgent need for new sources of oil and gas. A new sense of nationalism is also evident in Russia.
The ice thaw is predicted by a team of international researchers whose Arctic Climate Impact Assessment suggested in 2004 that the summer ice cap could melt completely before the end of this century because of global warming.
As we already saw above, if the ice retreats, it could open up new shipping routes and new areas where natural resources could be exploited and the US Geological Survey estimates that a quarter of the world's undiscovered energy resources lies in Arctic areas.
At the moment, nobody's shelf extends up to the North Pole so there is an international area around the Pole administered by the International Seabed Authority from Kingston, Jamaica.
But quite apart from the Russian claim there are multiple other disputes.
The US and Canada argue over rights in the North-west Passage, Norway and Russia differ over the Barents Sea, Canada and Denmark are competing over a small island off Greenland, the Russian parliament is refusing to ratify an agreement with the US over the Bering Sea and Denmark is claiming the North Pole itself.
The five countries involved are considering two other potential ways of sharing the region, in which all the sea would be divided between them.
The "*median line method*", supported by Canada and Denmark, would divide the Arctic waters between countries according to their length of nearest coastline. This would give Denmark the Pole itself but Canada would gain as well.
The "*sector method*" would take the North Pole as the centre and draw lines south along longitudes. This would penalise Canada but Norway and, to a lesser extent, Russia, would gain.
One major problem is that the United States has not ratified the 1982 UN convention, largely because senators did not want to have international restrictions placed on American actions.
What happens when countries' waters overlap? If the United Nations concludes that the lay of the seabed gives two countries rights to the same area, they can settle their boundary dispute independently or through a different U.N. tribunal. So far, there haven't been any disputes like this in the Arctic, but researchers have yet to map the entire Arctic seabed.

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What's known of the topography suggests that Canadian waters may end up intersecting with those of Russia and Greenland.
Right now, the United States is the odd man out, legally, because it's the only country with Arctic interests that hasn't signed onto the Law of the Sea. (President Reagan refused the treaty because he thought it would hamper U.S. underwater mining.) The fact that America isn't a member means it has to resolve any dispute independently.
However, in May 2007, Senator Richard Lugar, a senior Republican, pleaded for ratification in the light of the Russian moves, saying that an American voice was needed at the negotiating table.
But also because a control by the Russians of the North Pole will threathened the US national security in a near future
This is why the U.S. Coast Guard is planning to establish its first Arctic base at an outpost in Barrow, Alaska, the northernmost point on the U.S. mainland. The announcement comes less than three months after a spat between Canada and Russia over control of Arctic waters. Norway, Iceland, and Denmark (through its province, Greenland) also voice claims on parts of the Arctic Ocean, particularly as thawing ice opens up previously inaccessible waterways and natural resources. So, who owns the Arctic?

Finally and for the moment no one owns the North Pole, but every country with a border on the Arctic Ocean claims some of its waters. Because the North Pole is covered by an ice shelf and isn't actually land, it is governed by the Law of the Sea, a 1982 U.N. treaty signed by more than 150 countries.
The agreement gives each nation control of the area up to 200 nautical miles (230 miles) off its coast, so everyone with so much as a shoreline in the Arctic gets some Arctic waters and whatever natural resources might lie beneath them.

The battle for control of the Arctic has already begun and the first arrivals will certainly be better served.

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