



LEGAL AND REGULATORY QUESTIONS OF SHIPPING ALONG THE NORTHERN SEA ROUTE

A.N. Yakovlev¹ and A.P. Ushakov²

¹ Central Marine Research & Design Institute, St. Petersburg, Russia

² Administration of the Northern Sea Route, Moscow, Russia

ABSTRACT

The aim of this work is to give a legal estimation of the Northern Sea Route (NSR). Based on the international standards and Russian legislation concerning shipping along the Northern Sea Route, requirements are provided for the shipowners with regard to the access of the vessels to the NSR, order of navigation and regime of foreign vessels calling at the Arctic ports.

1. INTERNATIONAL STANDARDS AND RUSSIAN LEGISLATION CONCERNING REGULATION OF SHIPPING ALONG THE NORTHERN SEA ROUTE

The international legal basis for regulation of shipping along the NSR are provisions of Article 234 of the «UN Convention on the Law of the Sea, 1982» (LOSC 1982), dealing with «ice covered areas» within the exclusive economic zone.

The following are the basic Russian legislative acts used to make legal evaluation of the selected NSR: the Law «On State Border of the Russian Federation (RF)» of 1993; the Federal Laws «On the Internal Sea Waters, Territorial Sea and Contiguous Zone of the RF» of 1998 and «On the Exclusive Economic Zone of the RF» of 1998; the Decree of the Council of Ministers of the USSR of 1984 and 1985 promulgating «The List of Geographical Coordinates which Determine the Positions of the Basic Lines for the Calculation of the Width of Territorial Waters, Economic Zone and Continental Shelf of the USSR». The main documents regulating navigation along the NSR and setting forth special requirements to vessels aimed at directing sea ice operations ensuring safety of navigation and marine environment protection include «Regulations for Navigation on the Seaways of the NSR» of 1991, «Guide to Navigation through the NSR» of 1996, and «Provision on the NSR Administration» of 1971. The Guide (1996) includes «Regulations for Navigation on the Seaways of the NSR» of 1991, «Regulations for Ice-breaker Leading of Vessels through the NSR» of 1996, and «Requirements for the Design, Equipment, and Supply of Vessels Navigating along the NSR» of 1996. Requests for «Guide to Navigation through the Northern Sea Route» (in English and Russian) are to be sent to the State Hydrographic Department of the RF Ministry of Transport (Moskovskiy pr.12, St-Petersburg, Russia, Fax (812) 310-37-68).

1.1. Legal Status of the Northern Sea Route

The Russian Federation (RF) has introduced a common legal status to develop international commercial shipping along the NSR. The basis for regulation of shipping along the NSR are provisions of Article 234 of the LOSC (1982). Regulations for Navigation (1991) are valid for the whole spatial sphere of the NSR - internal waters, territorial sea and economic zone of the Russia, and the main objectives include safety of navigation, environmental protection from pollution by vessels and selection of the most convenient routes. Boundaries of the NSR are in

the west - the western entrances to the Novaya Zemlya straits and the meridian running north through Mys Zhelaniya, and in the east - in the Bering Strait the parallel 66°N and the meridian 168°58'37''W (see Figure 1). The sphere of the NSR activities is presented by selected route and the length of internal waters, territorial sea, and economic zone of the Russia on the selected routes is presented in Table 1.

Table 1. Length of internal waters, territorial sea, and exclusive economic zone of the Russia on the selected routes (%)

Maritime areas	Southern (coastal) route (2680 ml)	Northern (high latitude) route	
		Through Vil'kitskogo Strait (2108 ml)	North Severnaya Zemlya islands (2446 ml)
Internal waters	7	5	-
Territorial sea	22	1	1
Exclusive economic zone	71	94	99

The data show that approximately 30 % of the Southern route lie within sea areas over which Russia possesses absolute sovereignty. The remaining stretch of the Southern route, as well as the whole of the Northern route are within the limits of the exclusive economic zone (EEZ) where the Russia exercises its jurisdiction on the maintenance and protection of marine environment.

The common legal status facilitates access to any NSR route. A vessel accepted by Marine Operations Headquarters (MOH) for leading is also granted the right of passing along all parts of Russian internal and territorial waters on these routes. If a vessel making a voyage along the selected routes did not submit application for leading, it will be obliged to request permission to cross any maritime area under Russian control.

1.2. Navigational Regime in the Territorial Waters

The outer limit of territorial waters (12 miles) determines the State border of the RF. Foreign vessels are granted the right of "innocent passage" through territorial waters on condition of compliance with international agreements and legislation. The passage is considered innocent unless it infringes peace, good order or safety. "Innocent passage" traversing through territorial waters of the RF is effected with a purpose without entering internal waters, and ports (roadstead) of the RF or leaving them when putting to the open sea. While effecting "innocent passage" a foreign vessel shall follow the sea route or traffic separation scheme if such is prescribed by Russian authorities, or proceed by the usual course.

This regime is compliance with the provisions of the Part II Section 3 of LOSC (1982). Article 18 stipulates uninterrupted and expeditious passage.

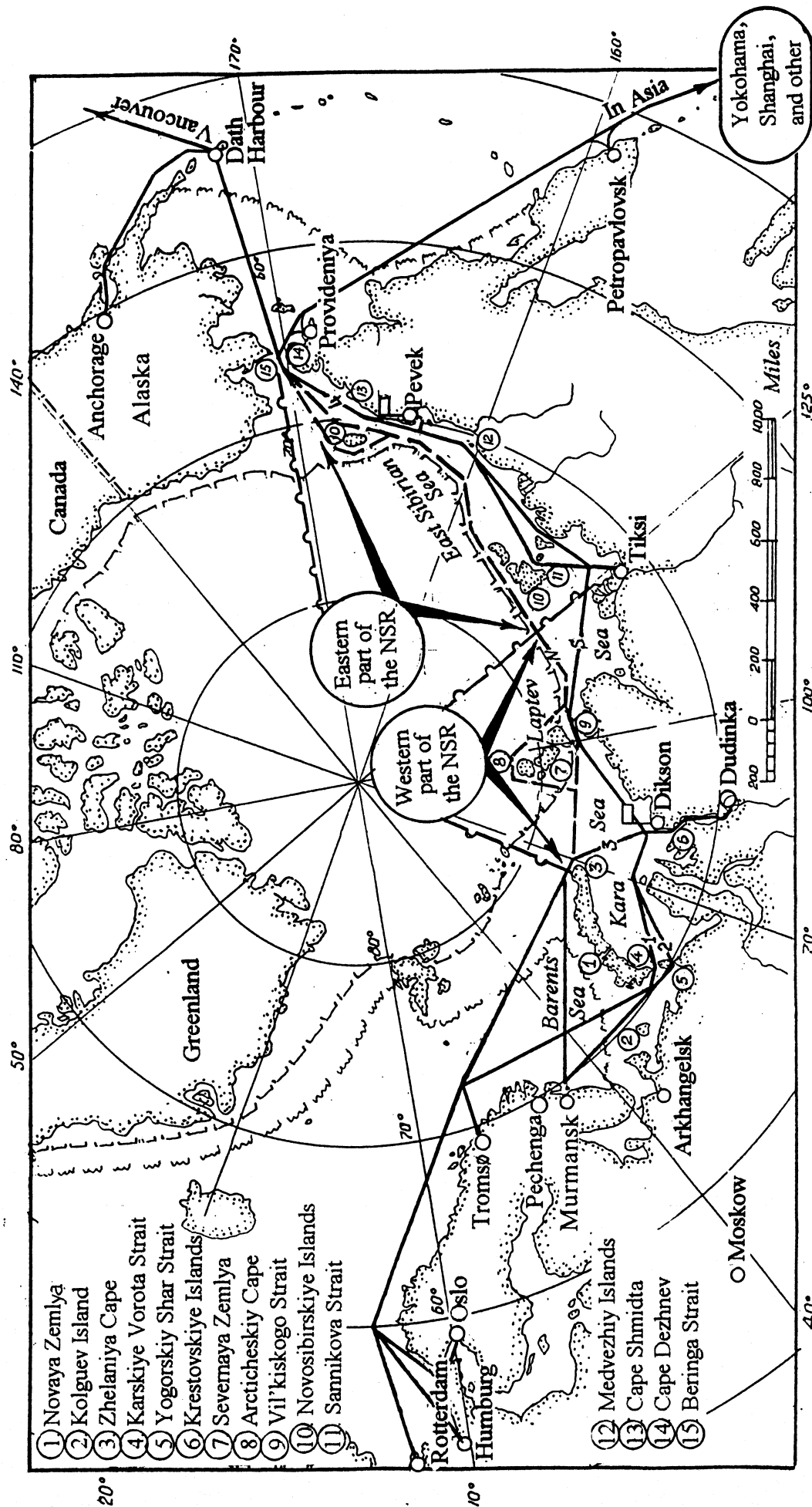


Fig. 1. Variants of routes of the Northern Sea Route (NSR)

—S— - Southern (coastal) transit route - 2680 nm

--N-- - Northern (high latitude) transit route - 2446 nm

—1— - Regional route

~~~~~ - Borders of the NSR

~~~~~ - Average of ice border in period of maximum of spreading

~~~~~ - Average of ice border in period of minimum of spreading

☐ - Marine Operations Headquarters (Dikson and Pevek)

### **1.3. Navigational Regime in the Arctic Straits**

One selected route pass through the straits of Karskye Vorota, Vil'kitskogo and Sannikova. Since 1985 regime of internal waters has been in effect in these waters. Entrances to the straits are closed by the straight base lines which go through geographical co-ordinates in accordance with the List (1984, 1985). The regime of territorial sovereignty of the USSR has been extended to practically all straits of the Soviet Arctic. This action of the USSR taken in the period of the «Cold War» had the sole objective - to prohibit uncontrolled navigation of foreign vessels through the straits. Nowadays Russia is working with the problem of developing international shipping along the NSR, and permission for entering the NSR may be granted upon notification and request for leading under Article 3 of the Regulations for Navigation (1991).

Vessels which has been accepted for leading along the NSR may proceed freely along its seaways including the straits keeping to the routes recommended by the MOH. However, a foreign vessel which has entered the NSR without proper notification to the NSR Administration (NSRA) and intends to pass through certain straits will be obliged to apply for permission for this passage. In the Vil'kitskogo, Shokal'skogo, Lapteva and Sannikova straits, owing to difficult navigational and ice conditions, the Regulations for Navigation (1991) require compulsory ice-breaker - assisted pilotage in order to ensure safety of navigation. In case of difficult ice conditions in Karskye Vorota Strait vessels may take the route through Yugorskiy Shar Strait. The pilotage through the latter strait is carried out either with a pilot on board or by leading, following a ice-breaker or hydrographic vessel.

### **1.4. Navigational Regime in the EEZ**

The Northern route (if the one leading northward of the Severnaya Zemlya islands has been chosen) and the most part of the Southern route pass through the Russian EEZ. The status of the EEZ with a width of 200 nautical miles is specified by the Federal Law (1998). This Law, in accordance with the LOSC (1982), declares the right for all States to effect free navigation in the EEZ of the Russia. The Federal Law (1998) also expands Article 234 of LOSC 1982 (ice-covered areas) and gives general provisions regarding liability for any infringement of Russian or international laws in case of marine environmental pollution by vessels.

The first USSR legislative act regarding regulation of shipping in the Arctic waters was the Decree "On Measures to Improve Ecological Situation in the Regions of the Extreme North and Sea Areas Adjoining the Northern Coasts of the USSR" of 1989. In compliance with the sub-legislative Act (1990) the Ministry of Merchant Marine worked out and approved "Regulations for Navigation on the Seaways of the NSR". Attention was draw to

financial security of the shipowners' liability in case of marine environment pollution;  
compulsory insurance, and

the NSRA's right to carry out control inspections on vessels verifying their compliance with special requirements. Navigation along the NSR was prohibited for vessels infringing the provisions of the Regulations. The sub-legislative Act (1990) explains the right of the authorities regarding inspection, detention and arrest of vessels as well as the possible imposition of penalties (fines) to prevent any infringements mentioned in the Decree (1989) within the limits of the USSR EEZ.

On the whole the national regime of shipping in the EEZ of Russia correlates with the provisions of the LOSC 1982 as well as with legislative practice of foreign States. The Canadian Law on Prevention of Arctic Pollution of 1970 may serve as an example.

## **2. REGIME OF VESSELS ACCESS AND ORDER OF NAVIGATION ON THE NSR**

### **2.1. The Order Requiring Submitting Notification and Request for Leading through the NSR**

The notification and request for leading of vessels along the selected route is to be sent to the NSRA (Rozdestvenka Street, 1/4, 103759, Moscow, Russia, Fax: (095) 926-91-28). Request shall be submitted on a special form within a stipulated period of time shown in the Regulations (1996), Article 2.1. Besides, as required by the Order of the RF Ministry of Transport, dated 22 July, 1996, N57, the request shall contain information on payment for ice-breaker fees. The NSRA sends the necessary information regarding the leading of foreign vessels to MOHs.

When the purpose of sailing is scientific research or tourism the foreign applicant shall, not later than 6 months in advance, send a corresponding request to carry out the above actions via diplomatic channels. The order of granting permission to carry out scientific research or accept tourists is stipulated by the provisions of the Regulations (1996).

### **2.2. Special Requirements for Vessels**

"Requirements for the Design, Equipment and Supplies of Vessels Navigating along the NSR" are set forth in the Guide (1996). These requirements apply to vessel's hull, her mechanical installations, stability and unsinkability, aids to navigation and means communication, supplies and emergency equipment, manning of vessel. Main requirements for the design and equipment of vessels include, the double-bottom, the shape of the hull adapted for navigation under ice conditions, the ice resistance and design of the hull categories ULA, UL and L1, the devices for close towing by an icebreaker, the four blades propellers, the device for collection and destruction of refuse and wastes contaminated with petroleum products. All vessels must be equipped with standard means of navigation together with the additional instruments, for instance, two radar sets, a radio navigation or satellite navigation system, a station for satellite communications, a satellite emergency radio buoy. All the vessels must be provided with emergency supplies.

In addition to the design requirements to the vessel, of vital importance are also the experience of the Captain or another person navigating the vessel in ice, and the necessity of taking a State ice pilot on board, should the need arise. In compliance with Article 9.2 of the Requirements (1996) the Captain or the person who performs his duties shall have minimum knowledge and experience in navigating a vessel in ice conditions along the NSR of not less than 15 days. Captain without such experience shall use the services of the State ice pilot. The vessel may hire a helmsman who has ice navigation experience. Together with the State ice pilot a Russian radio operator may be taken on board as was the case during the voyage of the Finish tanker "Uikku" in 1998. This radio operator will render assistance to the Captain of foreign vessels and the State ice pilot in maintaining reliable radio contact with the ice-breaker,

MOH and shipping companies required under «Guide to Communication for the Period of Arctic Navigation through the Seaways of the NSR».

### **2.3. Inspection of Vessels**

Any vessel navigating along the NSR must carry on board, along with conventional means of communication, a ship station for satellite communication, a receiver of navigational warnings (NAVTEX), a satellite emergency radio-buoy, recording and receiving facsimile apparatus for reception of charts with hydrometeorological information, and a VHF station for communication with aircraft, helicopters and other vessels in convoy.

Inspection of the vessel to verify the compliance with the Requirements (1996), may be carried out in ports of Murmansk, as well as in any other port suitable for shipowner. The NSRA may employ for the purpose any organisations recognized by it to carry out the inspection. Based on the results of vessel inspection the "Permission" for leading (see pro forma) is granted. The term "Permission" used in the document, shall be considered as a technical but not a juridical one.

The final requirement for ship access to the selected route is a contract between shipowner or representative (Captain) on one hand, and representatives of the Murmansk or Far Eastern Shipping Companies on the other. Details of the escort, liabilities and duties of contract's sides (see Articles 7-12 of the Regulations for Navigation of 1991) and terms of payment are indicated in the contract. While sailing along the NSR and if unfavourable ice, navigational and other conditions occur which subsequent threat to the polluting marine environment, representatives of the NSRA may fulfill the control inspection the ship. The place of the control inspection (port, road, etc.) may be defined by the NSRA (MOH) with respect to the route of ship.

### **2.4. Order of Navigation**

In compliance with the Regulations (1996) the MOH's effect control over traffic and direct marine ice operations in the NSR western and eastern parts. The demarcation line between the MOH zones of responsibilities is the meridian 125° E. MOH's have been established in the western part (port of Murmansk) by the Murmansk Shipping Company (MSC), and in the eastern part (port of Pevek or on ice-breaker) by the Far Eastern Shipping Company (FESCO). The main duties of the MOH's include, fulfilment of the marine operations plans, choosing the best routes used upon the existing ice conditions, rendering ice-breaker leading services, forming convoys for ice leading, safety of ice navigation controlling providing for positions and traffic of all vessels under way on the routes. The NSRA coordinates the activities of both shipping companies and their MOH's. The NSRA also contact with potential cargo shippers, considers applications and informs of the possibility for leading, works out rates of ice-breaker and pilotage fees together with the MSC and FESCO, deals with the insurance coverage for the NSR. In accordance with applications for leading the NSRA together with the MSC and FESCO determines positions of ice-breakers. In previous years the full volume of transit cargo transport along the NSR was directed by the MSC. A State ice pilot goes on board vessels accepted for leading in the approaches to the Kola Gulf, in the outer roadstead of the port of Provideniya, and in positions indicated by the representatives of

Form

Northern Sea Route Administration of the Ministry of Transport RF  
**PERMISSION No**  
for leading vessel through the seaways of the NSR

Name of the ship; Flag

Year of build

Call sings

Port of registry

Gross tonnage, reg. t (GRT)

Ice class

Output of the main engines

Screw (construction, material)

I, the undersigned \_\_\_\_\_ (Name) \_\_\_\_\_ certify the  
m/ " \_\_\_\_\_ (Name of ship) " can navigate on the Northern Sea

Route in the region (s) \_\_\_\_\_  
from " \_\_\_\_\_ " 199 \_\_\_\_ yr. to " \_\_\_\_\_ " 199 \_\_\_\_ yr.

with the State Ice Pilot NSRA on board while sailing and shall navigate following  
recommendations of the Marine Operations Headquarters.

This PERMISSION does not give the right to conduct any scientific research, any fishing or  
tourizm, while passing through the Northern Sea Route.

This PERMISSION is valid until " \_\_\_\_\_ " 199 \_\_\_\_ yr.

Certified by the authority of the Northern Sea Route Administration

at \_\_\_\_\_ (Place) " \_\_\_\_\_ " 199 \_\_\_\_ yr.

Administration, Representative (s) of NSRA \_\_\_\_\_

(Name, signed and sealed)

Security satisfying the requirements of Article VII of the International Convention on Civil  
Liability for oil Pollution Damage 1969.

Type of Security \_\_\_\_\_

Duration of Security \_\_\_\_\_

Name and address of the Insurer(s) and/or Guarantor(s)

Name \_\_\_\_\_

Address \_\_\_\_\_

Captain of the ship mv \_\_\_\_\_

Signature \_\_\_\_\_ / \_\_\_\_\_

Name in block letter

" \_\_\_\_\_ " 199 \_\_\_\_ yr.

representatives of the NSRA or MOH. Further sailing of a vessel along the selected route will be directly controlled by the MOH.

The above recommendations regarding ice-breaker-assisted pilotage and most favourable routes are based on average long-term ice conditions. Actual ice conditions may result in a substantial deviation from the selected routes. In all such situations the Captain shall follow the orders at the MOH. To ensure safety of navigation the MOH's are entitled to order a change in the type of pilotage. If a vessel does not comply with the provisions of the Regulations for Navigation (1991), she may be expelled from the limits of the NSR. The NSRA and MOH's bear no liability for any damage to the vessel caused during leading in ice conditions unless it has not been proved that such damage was caused through their fault (Article 11 of the Regulation for Navigation 1991).

### **3. REGIME FOR FOREIGN VESSELS CALLING AT ARCTIC PORTS**

#### **3.1. Opening of Arctic Ports for Foreign Vessels Calling**

In connection with foreign tankers transporting fuels and refrigerated carriers importing of foodstuffs to the Russian North, the RF Government issues annually the "permit of calling" to foreign vessels at a number of Arctic ports and stations. In 1998 the corresponding list includes 70 such sites. The procedure of co-ordinating the list of ports and stations being only temporarily in operation, is completed by June, i.e. by the beginning of the Arctic navigation. Since the voyage of the Finnish tanker "Uikku" was scheduled for earlier date (April-May), the procedure of co-ordinating the vessel's entering the Ob Bay (terminal Sabeta) was carried out, as an exception, in a short space of time and completed just before the vessel proceeded to sea. Established regime for foreign vessels calling at the mentioned ports and stations provides for border-guard control and customs examination to be held both on arrival in and on departure from the RF, in the ports open to foreign vessels. On the 1992 voyage "Murmansk-Ob Bay" the border-guard control and customs examination was executed in the port of Murmansk.

#### **3.2. Border-guard Control**

The regulations for calling at and lying in the open ports (roadstead) have been established by "The Law on the RF State Border" of 1993, other legislative acts of the RF and special Decrees of the RF Government published in Notices to Mariners. Foreign vessels proceeding to the RF ports (roadsteads) shall advise the port authorities of their estimated time of arrival. Vessels of foreign States which have required for Russian vessels notification for calling at their ports may call at the RF ports only after having received permission to do so from the Russian authorities. This is according to the principle of reciprocity (Article 25 of the State Border Law (1993). The places and duration of lying at stations at the crossing of the State border are to be indicated by port administration and approved by the Federal Border-guard Service and the State Customs Committee of the RF. The operational regime of the Border-guard and Customs Stations in merchant ports is established by the RF Ministry of Transport. The border-guard control is effected in compliance with the State Border Law (1993). The order, means and methods of border-guard control are established in accordance with the State Border Law (1993) through regulatory acts issued by the RF Ministry of

Transport and agreed upon by the RF Ministry of Justice. Officials inspect the ship's and navigational documents. The Captain shall, if required by the Border-guard, open holds, rooms, other spaces and the transported cargoes for inspection. The vessel may leave port only after officials have issued a corresponding permission.

### **3.3. Custom Examination**

Customs examination is carried out in compliance with the Customs Code of 1993. When goods and means of transport have arrived the shipowner (Captain) advises the RF Customs of crossing the RF Border. Customs indicates time and place where the vessel must be taken to effect her clearing. These provisions do not apply to vessels crossing the customs territory if they do not intend to make a stop in ports located on the RF territory. The Captain must submit a declaration, ship's papers and cargo documents for carrying out a customs examination. Customs officials may require opening holds, rooms, tanks and other ship's spaces, as well as unpacking of goods. After all stages of customs examination have been completed, the corresponding document is stamped - "Cleared".

### **Conclusion**

Perfecting of the Russian legislation regarding the Northern Sea Route is aimed at the creation of a favourable regime for the international commercial shipping. Matters being studied within the Committee of the Council of Federation in 1999 include, to establish stage-by-stage an "international" status to the Northern Sea Route, to create conditions for raising competitive capacity of the Arctic ports, to put into effect the "Regulations for the Ice-breaker Fees on the Seaways of the Northern Sea Route", to develop and put into effect the new "Regulations for Navigation on the Seaways of the Northern Sea Route".

### **REFERENCES**

- Baskin A.S., et. al. 1998. Routes and Associated Operational Infrastructure. Lysaker, Norway: Fridtjof Nansen Institute, INSROP Working Paper No. 108, pp.1-14
- Koroleva N.D., Markov V.Y., Ushakov A.P. 1995. Legal Regime of Navigation in the Russian Arctic. Moscow: Soyuzmorniiiproekt, pp. 98-104.
- Ivanov Y.M., Ushakov A.P., Yakovlev A.N. 1998. Russian Administration of the NSR - Central or Regional? Lysaker, Norway: Fridtjof Nansen Institute, INSROP Working Paper No. 106, pp.32-50.