IUS MARIS CLIMATICUM · WMU MALMÖ · 9 JUNE 2026

Aurora and the Maritime Law of Negative Emissions after the Advisory Opinions

State Obligations and Sub-Seabed Storage

Olena Bokareva · Anıl Öztürk
Faculty of Law, Lund University

The argument in four movements

I. *Aurora and the litigation lineage*

II. *The advisory opinions and marine pollution*

III. *Sub-seabed storage and the regulatory architecture*

IV. *Synthesis. Due diligence and the negative-emissions duty*

I.

Aurora and the litigation lineage

On youth claimants, Swedish constitutional law, and the limits of the court's role.

The first systemic climate claim in Sweden failed at the threshold, not on the merits.

Some 600 young applicants invoked the Convention and the Charter.

Anton Foley and others v Sweden, decided 19 February 2025.

For individual applicants the threshold is set high.

Reasoning throughout from KlimaSeniorinnen; an actio popularis is excluded.

Specific performance lies outside the administration of justice.

Only a declaratory claim of violation remained available.

> *The only action that would be admissible under the third paragraph of Chapter 13, Section 2, when required under Article 6 in climate-change litigation, is thus that it be established that there has been a violation of the rights of individuals under Article 8.*
>
> *Supreme Court, Ö 7177-23*

The Court left one door ajar, and the dissent would close it.

The association question was expressly reserved.

A renewed claim, confined to a declaration of violation, may yet fit.

Mattsson J: the impediment does not turn on who brings the claim.

A declaratory climate action is abstract review; cf Unibet II, Videoslots.

Finland, weeks earlier, reached the merits.

The divergence is one of justiciability, not of the underlying facts.

> *What is important is the form of the claim and the alleged omissions on the part of the State, not who is the applicant.*
>
> *Mattsson J, dissenting*

II.

The advisory opinions and marine pollution

On greenhouse gases as pollution of the marine environment, and stringent due diligence.

"article 195 of the Convention requires States … not to transfer … damage or hazards from one area to another or transform one type of pollution into another … marine geoengineering would be contrary to article 195 if it has the consequence of transforming one type of pollution into another."

ITLOS, Request for an Advisory Opinion submitted by the Commission of Small Island States, ¶ 231.

The pollution-transformation principle reaches sub-seabed storage, but only so far.

After ITLOS, greenhouse gases are pollution of the marine environment.

A failed store may transform one type of pollution into another.

The exporting State's due diligence reaches long-term integrity.

It is not discharged once the storage permit has issued.

Yet the analogy does not condemn authorised storage.

Permitted storage is a control measure; the London Protocol is lex specialis.

Its force is to locate where the obligation bites.

Where integrity is not secured by the receiving State's regime.

III.

Sub-seabed storage and the regulatory architecture

On the cross-border chain, the London Protocol, and the EU Directive's long tail.

Sweden is at once respondent in Aurora and an exporting State for stored carbon.

15 April 2024: arrangements with Norway and with Denmark.

Under the provisionally applied 2009 amendment to the London Protocol.

Northern Lights took first injection in August 2025.

Roughly 2,600 metres beneath the Norwegian continental shelf.

Stockholm Exergi: up to 900,000 tonnes a year from 2028.

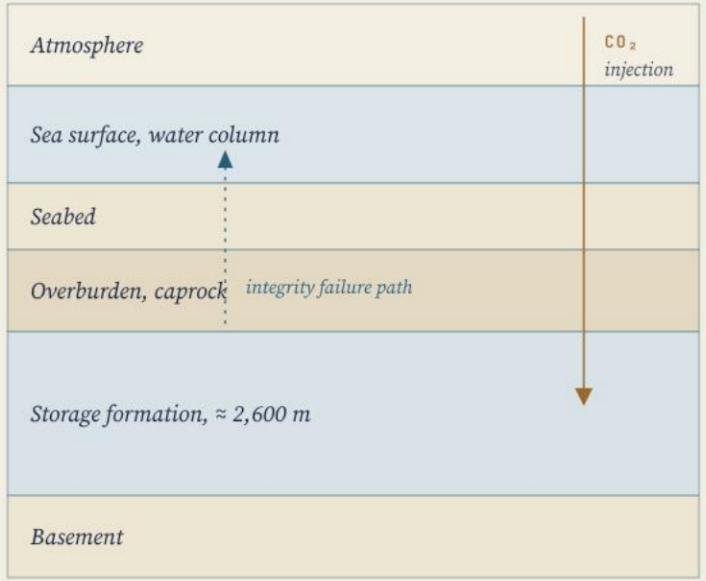
Most volumes are abatement; the biogenic stream is removal.

One value chain, one regime, indifferent to provenance.

Abatement and negative emissions cross the boundary under the same rules.

FIGURE 01 · THE SUB-SEABED STORAGE STACK

What the molecule crosses, and where the law attaches



Permitting

London Protocol, Annex 1;
EU CCS Directive, Arts 4–9

Operation & MMV

UNCLOS Art 194 due diligence;
monitoring, verification

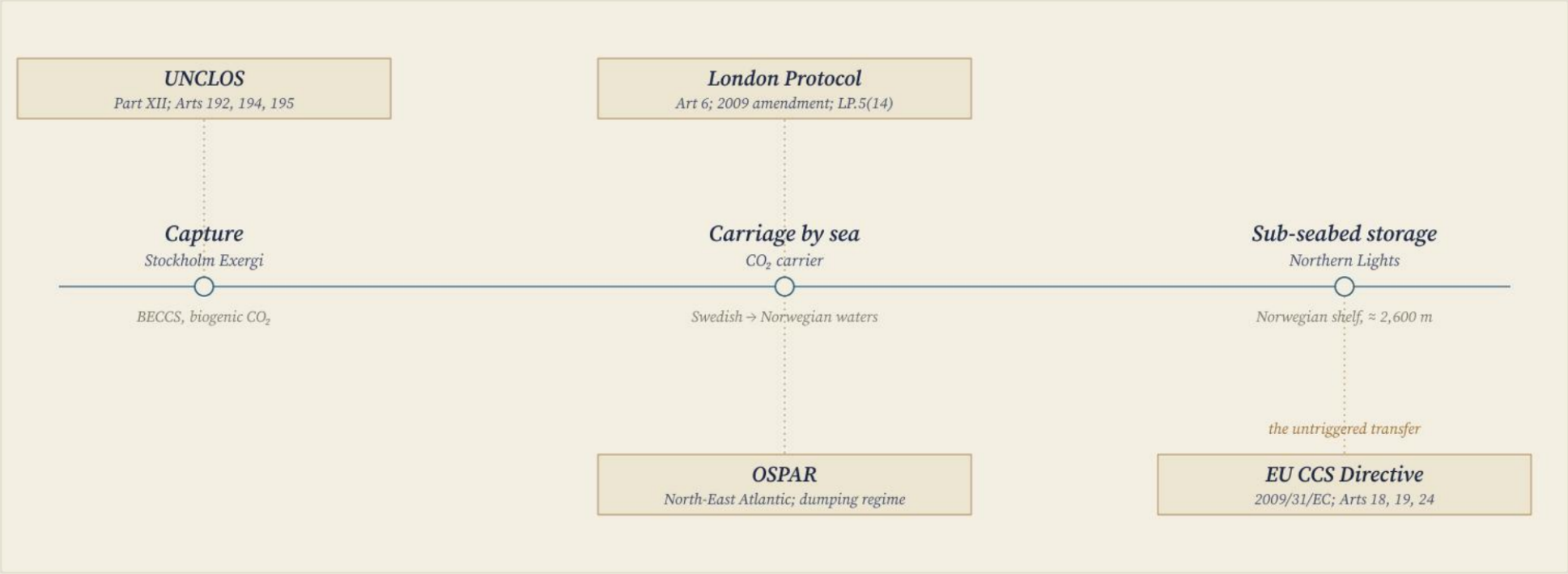
Long-term integrity

Art 195 transformation;
CCS Directive Art 18 transfer

Stratigraphic schematic; not to scale. Depth after the Aurora reservoir, Northern Lights.

FIGURE 02 · THE REGULATORY ARCHITECTURE

Four regimes meet over one cross-border shipment



Schematic of regime interaction; arrows show where each instrument attaches to the chain.

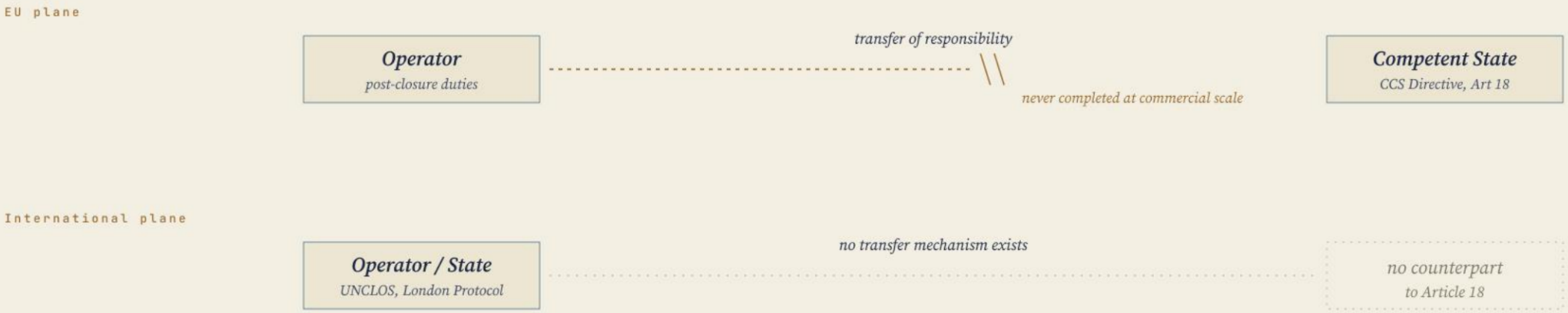
IV.

Synthesis. Due diligence and the negative-emissions duty

On where the obligation bites, and the gap on which it presently rests.

FIGURE 03 · THE DOUBLED LIABILITY GAP

Who holds the risk in eighty years, and on what basis



Sleipner

CO_2 reached an unforeseen layer within three years.

Snøhvit

Eighteen years of capacity, six months of headroom.

Gidden et al, Nature

A prudent planetary limit near 1,460 Gt.

The claim that fails on standing is the native language of the opinions.

Domestic rights litigation reasons from individual harm.

It meets the standing and separation-of-powers limits.

The advisory framework reasons from erga omnes obligations.

It imposes no individual-victim threshold.

So the fair-share argument migrates upward.

What fails in Nacka is the ordinary currency of ITLOS and the ICJ.

Aurora mediates the gap at a single point.

The association declaratory claim, whatever its eventual fate.

CONCLUSION

Due diligence reaches the seabed;
the architecture beneath it does not yet hold.

— THANK YOU —

Tack

Olena Bokareva · olena.bokareva@jur.lu.se
Anıl Öztürk · anil.ozturk@jur.lu.se