

THE CASE FOR ARCTIC GOVERNANCE

THE ARCTIC PUZZLE

INSTITUTE OF
INTERNATIONAL
AFFAIRS
—
THE CENTRE FOR
ARCTIC POLICY
STUDIES

BY

HELGA HAFTENDORN



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ABSTRACT

This paper reviews the present state of Arctic governance and makes the case for strengthening it. The author argues that states and indigenous communities in the circumpolar region will be better able to deal with the manifold challenges of climate change if they are cooperating closely and have adequate institutions available. In this endeavour they have to cope with a fundamental paradox or puzzle: How can governance in the Polar region be strengthened without circumscribing the sovereignty of Arctic nations or the autonomy of native peoples?

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PREFACE

As the Arctic ice melts and the world's attention turns increasingly to the environmental, economic and strategic consequences, questions are inevitably being asked not just about the 'what' of decisions needing to be taken, but about the 'how' of international management. The spotlight is on Arctic governance: and the answers are neither simple nor entirely reassuring. While the circumpolar region does have a dedicated institution – the Arctic Council – that brings together all the North Pole's nearest neighbours in generally amicable mode, there are powers that the Arctic Council lacks and some issues (eg, defence) that it does not even discuss. The picture is further complicated by questions about which actors should be involved and who has the right to 'manage' the Arctic now and henceforth. The indigenous peoples are more fully represented in national and international governance than in most parts of the world, but still have concerns about the trend of policy and their ability to influence it. Powers, both national and institutional, outside the immediate Arctic region are increasingly claiming a stake there, for reasons both of self-interest and concern over the global implications.

This study by Professor Helga Haftendorn offers a comprehensive, authoritative and thoughtful review of these and other important questions concerning Arctic governance. It reflects the picture as it emerged from the Arctic Council's Ministerial meeting of May 2013 in Kiruna, potentially an important watershed. While showing that some fears about national discord and conflict risks in the Arctic are exaggerated, it underlines that the dilemmas of safe, inclusive and responsible management of this huge region are real – all the more so when private sector roles are taken into account.

This book is also the first publication of the Centre for Arctic Policy Studies (CAPS) established in 2013 at the University of Iceland's Institute of International Affairs and Centre for Small State Studies. It thus has an introductory role in a double sense, and will be followed by others on different, often more specialized, aspects of Arctic affairs. As the first Chair of CAPS's Governing Board I welcome the publication; would like to thank everyone involved; and would encourage any readers with comments or questions to contact Dr Kristinn Schram, Director of CAPS, at khschram@hi.is.

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June 2013*

INTRODUCTION

Climate change is most visible in the Arctic¹ and as a consequence, warmer temperatures have made the Polar region more accessible to human activities and industries. The melting of marine and terrestrial ice shields is whetting the appetite of energy-hungry countries for the region's natural resources, which include – besides gas and oil – precious metals and rare earths. After the US Geological Service published its estimates of identified or suspected oil and gas resources in the circumpolar region as totalling more than 50 billion barrels of crude oil (or corresponding gas equivalents, BOE),² the yellow press predicted a “battle for the Pole”, a fierce rush for the black gold of the Arctic comparable to the 19th century California gold rush. Are those observers correct who fear new conflicts in the High North, comparable to those that existed during the Cold War? How can violent international struggle be prevented and the exploitation of Arctic resources be managed by circumpolar regulatory frameworks?

In contrast to some alarming hypotheses³, there are in fact few indications of a mad race for Arctic resources. Though a future confrontation cannot completely be excluded, at present all Arctic countries seem to value peaceful behaviour higher than conflict, and are acting in conformity with the international law of the sea as codified notably in the U.N. Convention on the Law of the Sea (UNCLOS)⁴. There are two plausible explanations for this. On the one hand, the exploitation of the Arctic resources will fare much better in a stable, law-ruled political environment. This presupposes the existence of effective governing structures. And on the other hand, the development of the Arctic region will take much longer than has been expected by many observers who have been struck by the rapid melt of the Arctic ice on land and at sea.

An important precondition for sustainable income from Arctic resources is a stable political environment. Major foreign investments depend on lasting political stability. Tensions between Arctic states over sea borders or territory will hinder investors from putting money into regional business. To overcome conflict, mediation procedures are needed. A case in point is the Barents Sea, where foreign investments burgeoned after Norway and Russia had settled

¹ The “Arctic” is defined differently by various actors and authors; it most often refers to the region north of the Arctic Circle at 66° 33'. Other definitions describe the Arctic as the area north of the 10° C isotherm for July. The Arctic Council deals with a broader region defined by Arctic Human Development Boundaries and comprising much of Northern Scandinavia, North America and the seas bordering the Arctic Ocean. See UArctic Atlas: Putting the North on the Map, <http://AtlasFront.aspx?M=637>; and Alf Håkon Hoel, “The High North Legal-Political Regime”, Security Prospects in the High North: Geostrategic Thaw or Freeze? Ed. by Sven G. Holtmark and Brooke A. Smith-Windsor, Rome: NATO Defence College, NDC Forum Paper 7, 2009, pp. 81-101 (p. 82).

² USGS Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle: Bird, Kenneth J., Charpentier, Ronald R., Gautier, et al., “Circum-Arctic resource appraisal: estimates of undiscovered oil and gas north of the Arctic Circle.”: U.S. Geological Survey Fact Sheet 2008-3049, 4 p. Version 1.0, July 23, 2008; <http://pubs.usgs.gov/fs/2008/3049/>

³ Scott Borgerson, “Arctic Meltdown: the Economic and Security Implications of Global Warming.” Foreign Affairs, vol. 87, no. 2 (March/April 2008), pp. 63-44; Margaret Blunden, “The New Problem of Arctic Stability.” Survival, vol. 51, no. 5 (October/November 2009), pp. 121-142.

⁴ UN Convention on the Law of the Sea (UNCLOS), Montego Bay, 10 December 1982, http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm. The U.S. is not (yet) a party to UNCLOS but has pledged to follow the same rules, see also below.

their disputed sea border following a helpful ruling of the UN Commission on the Limits of the Continental Shelf (CLCS). In a different way the Nunavut Land Act has contributed to clarifying ownership in the Canadian North. The Arctic countries will strive to solve peacefully any international problems that will be detrimental to the profitable use of Polar riches.

Furthermore, Arctic development will be a rather slow process. In spite of the dramatic changes in 2012, with a new record low snow extent and minimum Arctic sea ice extent in September, so far none of the global climate models has indicated that the winter sea ice cover of the Arctic Ocean will disappear completely during this century.⁵ Exploitation will further be slowed down by the region's vastness, the harsh Polar climate, the uncertainty of deposits and their richness. Arctic prospectors and developers depend on highly sophisticated and expensive technologies if they want to profit from their finds. Most assets are found on land or on the coastal states' continental shelves; thus prospectors need licences for their operations. When assigning licences for exploration and/or extraction, the Arctic states carefully weigh economic benefits against costs to the environment and to indigenous communities. This further slows down the current and foreseeable speed of exploitation of the Arctic's resources. Even if the latter are as extensive as the USGS has predicted, it will take many tens of years to even know what can be exploited; like the Arctic melt itself, it will be a slow process.

The prize is striking. To the industrialized countries the Arctic's hydrocarbon deposits offer a follow-on or replacement for the finite North Sea energy resources and for those in politically sensitive countries of the Middle East. Even with new "fracking" technologies for extracting natural gas from shale rock layers deep within the earth – assuming they will prove ecologically acceptable – the thirst for energy in the developed countries cannot be fully satisfied. Besides oil and gas, the Arctic holds the promise of rich deposits of precious metals and rare earths, which are in great demand from the technologically advanced countries; their "green" industries cannot produce without them.

⁵ "2012 Arctic Report Cards describe dramatic changes in the Arctic", www.arctic-council.org/index.php/en/environment-a-climate/climate-change/654-2012-arctic-report-cards; Arctic Marine Shipping Assessment, April 2009, www.arctic.gov/publications/AMSA/arctic_marine_geography.pdf.

THE PEOPLES OF THE ARCTIC

The newly available resources will also benefit the peoples of the Arctic, whether they have come from southern regions or lived here traditionally. It is often forgotten that the “ice desert” has for millions of years been inhabited by native peoples. Of the approximately four million persons living north of the Polar Circle, close to half a million are indigenous peoples from a great variety of cultural and linguistic groups.⁶ Notwithstanding cultural and ethnographic differences, native people in the Arctic share a common history of attempted or forced assimilation into their various mother states and a lack of recognition of their rights on the land they have traditionally lived on. Against this background these peoples have united in working steadfastly towards their self-determination. Their primary objective is to ensure the preservation of a traditional way of living – including protecting it from any developments on their territories.⁷

For centuries various Sami peoples have lived in the European North; with their reindeer herds they have subsisted in the Arctic tundra of Finland, Norway, Russia and Sweden. Iceland has no early indigenous peoples. Other native tribes have settled along the coasts of Northern Norway and Siberia, mostly living from the sea. Many indigenous people have voluntarily integrated into Nordic and Russian societies – or have been forced to do so. As a consequence many groups have been largely assimilated. Today, changes in climate and habitat are added to the economic and social factors eroding enthusiasm for the herding lifestyle; Sami therefore increasingly turn to occupation in local crafts and industries or simply move elsewhere. Especially on the Kola Peninsula the grazing lands are heavily polluted as a result of industrialization. Native peoples also have a hard time preserving their traditional institutions while assuring their political participation in their host states.

The Sami indigenous peoples’ rights are respected in the constitutions of Finland, Norway and Russia, and have recently received a new formulation in Sweden. In all their host countries, the Sami practice various forms of self-government. In 1956 they founded a Nordic Saami Council as a volunteer-based and independent cultural and political cooperation organization for the Sami organizations in the four countries. The Council’s general objective is to protect Sami interests; strengthen Sami solidarity across national boundaries; and work to en-

⁶ Gail Fondahl, “Arctic Futures: It’s About Climate Change – But also much more!”, presentation at the Embassy of Canada in Berlin, 28 January 2013. Estimates for numbers of indigenous peoples vary widely; for example the figures distributed by the Arctic Peoples’ Secretariat in Copenhagen show as many as 800,000 persons (but out of a larger total). The Arctic Human Development Report of 2004 discusses the data problems at length (pp 27-41) and offers figures totalling c. 400,000 out of 4 million. [http://hdr.undp.org/en/reports/regionalreports/ other/name,3262,en.html](http://hdr.undp.org/en/reports/regionalreports/other/name,3262,en.html).

⁷ Piotr Graczyk and Timo Koivurova, “A new era in the Arctic Council’s external relations? Broader consequences of the Nuuk observer rules for Arctic governance.” *Polar Record*, Cambridge University Press 2013, pp. 1-12 (p. 2); Brit Fløistad, “Comparison of Indigenous Peoples’ Rights along the Arctic Routes”, *Arctis Knowledge Hub* <http://www.arctissearch.com/Comparison+of++Indigenous+Peoples+Rights+along+the+Arctic+Routes> ...

sure that the Sami will be recognized also in the future as one people, with cultural, political, economic, civil, social and spiritual rights guaranteed by each country's laws, by agreements between the Sami representative bodies and the states concerned, and by international laws in general. Environmental protection is another important theme. The same aims are reflected in a draft Nordic Sami Convention that was laid before the relevant governments by a working group in 2005.⁸

Along the Southern and Western Coast of Greenland up to 77°47' N, members of Inuit peoples live from the sea, fishing and hunting for seals and whales. But with the receding ice cover, the existing pressures of globalization against traditional lifestyles have intensified. Greenland is extremely rich in minerals and rare earths, located mainly at Greenland's southern tip and on the West Coast up to Uummannaq; since the middle of the 20th century they have been extracted by foreign investors. Since the Danish Crown bestowed self-government upon Greenland, the local authorities have had the right to dispose over the territory's resources on land and in the sea. In one of its first acts after the transfer of self-government, the authorities reviewed the existing mining contacts and examined both their benefits and risks. A very sensitive issue is the mining of rare earth at Kvanefjeld in southern Greenland, because its exploitation involves the extraction of uranium ore as a by-product. Greenland has a zero-tolerance policy for any mining that involves uranium and has therefore deferred further development of the Kvanefjeld site.

The Greenland general election in March 2013 brought the Arctic resource problem to the fore: Should a resource-rich country like Greenland prioritize earnings from the extraction and export of special metals and rare earths, or should it prevent any acts through which its pristine habitat could be degraded and traditional community life disrupted? This question was the big issue when Greenlanders cast their ballots for a new parliament. While the incumbent left-leaning Inuit Ataqatigit party had supported resource exploitation with, however, zero tolerance for any uranium mining and selling, the incoming social democrat Siumut party wants to use the island's mineral resources more extensively. It wishes to develop Greenland's mining industry as a way to reduce its dependency on subsidies from Denmark, even if this requires inviting thousands of guest workers – another sensitive issue. Opening the country to international miners will arouse concern among its indigenous Inuit people, many of whom still rely on fishing for a living and fear both foreign exploitation of their mineral resources and the risks of pollution from heavy industries.

Though the issue of sustainable mining has not yet been finally settled, the government now leans toward relaxing its concerns about the negative ecological effects of mining. Instead it welcomes mineral exploitation as a most welcome source of income for the indigenous communities – which in turn may bolster the Greenlanders' political interests and strengthen the basis for greater autonomy. Until now, Greenland has been almost completely dependent on contributions from the Danish Parliament for its public spending. The current statute on self-government contains, however, an income-sharing formula that in the long run promises full self-government and independence.

Other Inuit peoples have settled in the Northern Territories of Canada. The majority of the Canadian native peoples have signed Land Claims and Self-Government Agreements with the Federal Government that give them self-determination and a say in the lands and waters they

⁸ Mattias Åhrén, Martin Scheinin and Jogn B. Hendriksen, "The Nordic Sami Convention: International Human Rights, Self-Determination and Other Central Provisions", *Gáldu Cála (Journal of Indigenous Peoples' Rights)* No 3/2007. www.arcticgovernance.org/the-nordic-sami-convention-international-human-rights-self-determination-and-other-central-provisions.4644711-142902.html.

traditionally occupy⁹, though each agreement reflects the local and regional circumstances. In Nunavut, Northwest Territories and Yukon self-government includes the right for these peoples to dispose over their territory's mineral resources. In the Nunavut Land Claims Act of 1993, however, the Canadian Government has reserved the property rights over some especially rich parts of the territory as „Crown Land“. Proceeds from the latter are transferred to Ottawa while the indigenous people may only work in the mines. In return, the Federal Government has promised to make investments in the Northern Territories' infrastructure, but these have not fully lived up to the indigenous peoples' expectations. The Northern communities need improved health and educational services – and above all more job opportunities. Up to the present, most of the Nunavik Inuit peoples continue to make a living as caribou herders, hunters and fishermen. Practically no roads exist outside of villages, and transport is only possible by light plane or by ships landing at sandy beaches. In the sparsely populated North there exist only 530 miles of roads and highways, no deep-water harbours – not even along the Northwest Passage – and few all-weather airports with modern electronic equipment.

In the course of the centuries the indigenous peoples of Alaska have developed highly sophisticated cultures; they differ from each other according to factors of sub-regional climate and resources. There are five distinct groups of native Alaskan peoples: Aleut (Coastal Indians); Athabascan peoples of the interior; Northern Inuit and central Yupik; Tlingit and Eyak (Southern Indians).¹⁰ The indigenous peoples of Alaska's interior follow their herds of caribou and elk over great distances, fish for salmon and other catches from the streams and rivers. Furs and other goods are traded with neighbouring tribes. The Eyak and the Tlingit of the southwestern coastal areas are renowned for their beautifully carved and painted totem poles and woodwork.

When in 1915 the US Congress passed legislation making the native peoples of Alaska citizens of the United States, it decreed a large settlement and assimilation programme. The indigenous tribes were to sever “all tribal relationship and adopt the habits of civilized life”.¹¹ Later this hard line of assimilation was rejected and the natives were encouraged to adopt constitutions for self-government under the so-called Indian Reorganization Act (IRA). In 1971 an Alaska Native Claims Settlement Act was negotiated that allotted about 44 million acres of land – about a ninth of their original claims – to the indigenous peoples, plus \$962 million as a cash payment. The native lands were also transformed into a system of more than 200 villages and twelve Alaska Natives Regional Corporations, in which the indigenous peoples became shareholders in corporate-owned land. With growing communication among the indigenous peoples, they have learned how cooperation with other Arctic native peoples can help them to achieve their aspirations. In 1977 Inuit from Alaska, Canada and Greenland, claiming they were one nation, founded the Inuit Circumpolar Conference, later called the Inuit Circumpolar Council (ICC). Soon other North American aboriginal nations followed suit and set up their own native organizations such as the Aleut International Association, the Arctic Athabascan Council, and the Gwich'in Council International.

The native peoples of Northern Russia belong to a great number of different tribes. The most numerous are the Evenks, who live together with the Chukchi people in a region that extends from the Eastern Siberian Sea, the Chukchi Sea, the Bering Strait and along the Pa-

⁹ Aboriginal Affairs and Northern Development Canada, “Aboriginal Peoples and Communities”, www.aandc.gc.ca/en/g/1100100013785/1304467449155.

¹⁰ University of Alaska, Indigenous Peoples and Languages of Alaska, www.uaf.edu/anla/collections/map/anlmap.png.

¹¹ Brit Fløistad, “Comparison of Indigenous Peoples Rights along the Arctic Routes”. Arctic Knowledge Hub, www.arctis:search.com/Comparison+of++Indigenous+Peoples+Rights+along+the+Arctic+Routes... p. 3.

cific Coast down to Sakhalin. In the old days they were reindeer herders and hunters. In the Soviet period they were settled and organized in large Kolkhozes and Sovkhozes where they could pursue their traditional occupations only to a limited extent . The industrialization of their territories in the 1930s and the development of mining and forest industries marked a decisive change, even more so as these were coupled with the construction of prison camps (GULAGs), and with intensive and polluting industrial and military activities in many areas. The Nenets and other Samoyed peoples live in northwest Russia and on the Kola Peninsula; their traditions are quite similar to those of the Evenks further east or the Sami in the west.

To represent their interests vis-à-vis the state authorities, about 40 Russian indigenous groups formed the Russian Association of Indigenous Peoples of the North (RAIPON). They also used it to establish contacts with other peoples in the circumpolar region. Under a new law on Non-Governmental Organizations (NGO), however, the Russian Ministry of Justice in November 2012 ordered the closure of RAIPON. A dissolution of this indigenous association and other measures obstructing native peoples' activities under Russia's new anti-treason legislation would have deprived the native peoples of the North of an important instrument of self-government. After cumbersome negotiating and amendments to the organization's statutes, RAIPON was able to resume its activities in 2013.¹²

The aims and goals of all indigenous peoples in the circumpolar region are directed at the economic and social development of their communities while preserving traditional ways of living. The preservation of their natural habitat, keeping it as pristine as it was when their elders came to the land, is another top priority. An Indigenous Peoples Secretariat (IPS), based in Copenhagen,¹³ was established in 1994. The 1993 meeting of the Arctic Council had opened the way to assist and coordinate the involvement of Arctic Indigenous Peoples in the Arctic Environmental Protection Strategy (AEPS) adopted by circumpolar nations in 1991. One of the five major objectives of the AEPS¹⁴ was to recognize and, to the extent possible, seek to accommodate the traditional and cultural needs, values and practices of the indigenous peoples as determined by themselves.

¹² Barents Observer, 12 November 2012, and Barents Observer, 15 March 2013.

¹³ "Prominent, credible, relevant". Arctic Council Indigenous Peoples Secretariat, <http://www.arcticpeoples.org/component/k2/item/467-prominent-credible-relevant>. At its Kiruna Ministerial in May 2013 the AC decided to co-locate the IPS with the Secretariat of the AC at Tromsø, see Kiruna Declaration, Kiruna, Sweden, 15 May 2013, www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting.

¹⁴ Arctic Environmental Protection Strategy (AEPS), Rovaniemi, June 1991, <http://www.arctic-council.org/index.php/en/document-archive/category/4-founding-documents>.

THE ARCTIC PUZZLE

How can a “frozen desert” be governed if it is not a state and lacks a political hierarchy? Governance may be hindered both by the cultural, social and economic cleavages between native peoples and those that have come from the South, and by the Arctic countries’ governments’ strong insistence on their own national policies and strategies for the High North.¹⁵ In the Ilulissat Declaration states have expressively reaffirmed their sovereign rights over their Arctic lands and stated that their interests will not be served by a new comprehensive international legal regime to govern the Arctic Ocean.¹⁶ This ambivalence creates an Arctic puzzle: How can governance in the region be built without circumscribing the sovereignty of Arctic nations and the autonomy of native peoples?

First one must ask what exactly the concept “governance” means in this context. Bötzel & Risse define governance as “the various institutionalized modes of social coordination to produce and implement collectively binding rules or to provide collective goods. Thus, governance consists of both structure and process. Governance as structure relates to institutions and actor constellations ... Governance as process pinpoints the modes of social coordination by which actors engage in rulemaking and implementation and in the provision of collective goods.”¹⁷ The authors argue that in cases where both state and hierarchy are lacking, coordination has to be based on voluntary commitments and compliance. Conflicts of interest are solved by negotiation. The result of negotiations are voluntary agreements that are usually reached by accepting compromises and by granting mutual concessions, or by bargaining about side payments on the basis of fixed preferences. Actors might also engage in processes of non-manipulative persuasion and argumentation with which they develop common interests and change other actors’ preferences.

Under this definition governance can involve both state and non-state, both formal and informal processes. The relative weight of different participants and processes clearly depends on what issues and common aims are being addressed. Environmental, economic, and human dimensions of security are for example among the key challenges in the Arctic, as elsewhere, and depend greatly on the activities and inter-relationships of – among others - private sector actors and non-governmental organizations. In the present paper, the focus will be primarily on the Arctic region’s need for political coordination and norm setting, rules for conflict resolution, codes for risk reduction and response, and routine processes and institutional memories: in all of which inter-governmental structures and formal multilateral networks play a key, if not exclusive, role. It is clear in this context that Arctic countries’ aims and goals will be

¹⁵ The term “High North” is mainly used by the Nordic countries to refer to their territory north of the Polar Circle, while the other Arctic states refer to their “Arctic” regions, meaning the region north of the forest line or the 10°C isotherm for July. Here I will use both terms interchangeably.

¹⁶ The Ilulissat Declaration, Arctic Ocean Conference, Ilulissat, Greenland, 27-29 May 2008. www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf.

¹⁷ Tanja A. Bötzel and Thomas Risse, “Governance without a state: Can it work?” *Regulation & Government*, no. 4/2010, pp. 113-134 (114).

greatly enhanced if relations are channelled through a set of effective institutions. At Ilulissat, besides claiming sovereign rights over their Northern lands, waters, continental shelves, and their living as well as material resources, the five Arctic Ocean states have declared that they will be bound by the international law of the sea¹⁸ which they regard as their compass for action. But how effective are the existing structures and institutions; could they be strengthened and if so how? They must in any case be flexible enough to allow the Arctic states to pursue their interests and adjust to challenges in the region as well as its future opportunities.

In the Arctic region multilateral governance arrangements are formed by a net of political, legal, functional and institutional structures. In international law the Arctic Ocean is subject to a multitude of conventions which address – inter alia – navigation, delineation and delimitation of continental shelves, and resource exploitation. The Law of the Sea Convention (UNCLOS) provides the legal basis for most issues pertaining to the Arctic Ocean and to Arctic states' continental shelves. Another rule-making body with relevance to the Arctic is the International Maritime Organization (IMO)¹⁹, a specialized UN agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships. Its conventions deal with Safety of Life on Sea (SOLAS), Prevention of Marine Pollution (MARPOL), Oil Pollution Preparedness, Response and Co-operation (OPRC), Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) and Protection of Arctic Flora and Fauna (ICRW). Several other conventions and agreements regulate specific aspects of Arctic problems, such as fisheries, land and marine mammals, energy resources and pollution.²⁰

Especially dense is the institutional network in the Nordic space and the Northern Atlantic region. Soon after the end of World War II, the five Nordic countries began to cooperate in the Nordic Council (NC) and Nordic Council of Ministers (NCM) on a whole gamut of issues, eventually including defence. Noteworthy are the suggestions of the 2009 Stoltenberg Report²¹ for further strengthening common Nordic security. Many of the suggestions have an explicit Arctic application – though not all proposals have been accepted and implemented. Focusing on Greenland, the Faroe Islands and Iceland is another Nordic network: West Nordic Cooperation (WNC) with its inter-parliamentary body, the West Nordic Council. To involve Russia and its Northwestern regions and communities, the Barents Euro-Arctic Region and the Barents Euro-Arctic Council were founded on a Norwegian proposal in 1993, and a number of related institutions have been established such as the BEAC Secretariat and Barents Institute (BI) in Kirkenes. The European Union (EU) with its Northern Dimension Partnership Program (ND) is also part of the Arctic governance web. Many Arctic organizations and sub-organizations, such as the BEAC and the ND, involve sub-state and non-state as well as governmental actors.²² In the North Pacific region there are relatively few regional organizations, the exceptions being functional institutions such as the North Pacific Marine Science Organization, several agreements on Arctic fisheries, and coastguard cooperation – plus grass-roots networking among local peoples. One reason is that there are only two countries directly

¹⁸ See supra, note 5. The US has committed itself politically to follow the provisions of UNCLOS in this context although it has not yet acceded to the Convention.

¹⁹ International Maritime Organization (IMO), 1948, www.imo.org/About/Pages/Default.aspx.

²⁰ Alexander Proelss (2008), "The Legal Regime of the Arctic Ocean", <http://arcticgovernance.custompublish.com/the-legal-regime-of-the-arctic-ocean.4619834-137743.html>.

²¹ Stoltenberg Report, 9 February 2009, on Nordic foreign and security policy cooperation presented to the Nordic foreign ministers, www.regjeringen.no/upload/UD/Vedlegg/nordicreport.pdf.

²² Alyson JK Bailes and Kristmundur Þór Ólafsson (2011), "Northern Europe and the Arctic Agenda: Roles of Nordic and other Sub-regional Organizations." Draft Manuscript.

bordering the North Pacific Ocean, the United States and Russia, which on Arctic issues either cooperate bilaterally or in the framework of the Arctic Council and the United Nations.

The UNCLOS Convention is the primary legal yardstick for Arctic actions, though it is a global treaty and deals only marginally with the particulars of the Arctic. Article 76 UNCLOS provides that all states may claim a larger Exclusive Economic Zone (EEZ) – up to 350 nm – if they can prove that their continental shelf extends physically that far out into the sea. In the Polar region, this clause may result in overlapping entitlements. Before coming into effect, any related submissions have to be endorsed by scientific expertise from the UN Commission on the Limits of the Continental Shelf (CLCS).

Just one Article specifically relates to the Polar region. Article 234 of UNCLOS authorizes coastal states to develop and administer special regulations dealing with human activities in ice-covered waters. This grant of authority supports regulatory activities such as those carried out under Canada's Arctic Waters Pollution Prevention Act (WPPA). Article 234 seeks to upgrade coastal states' control over their waterways and should not abrogate the rights of other nations to innocent travel or transit passage – though in fact it does circumscribe them. As noted above, additional shipping guidelines have been adopted by the International Maritime Organization (IMO). Because navigation in the Polar region creates special challenges for both ship and crew compared to that in other parts of the world, a (still not mandatory) Polar Code has recently been developed. Using the SOLAS convention as its basis, the code stipulates rules for shipping in Arctic waters, including search and rescue, spills of hazardous materials, and the structure of vessels entering the region.²³

In a bottom-up process stemming from the concern about the protection of their fragile environment, the Arctic countries have for some time been developing closer cooperation for the protection of their vulnerable habitat. Upon the invitation of the Finnish government, officials from the eight Arctic countries, including the Soviet Union, gathered in 1989 to discuss cooperative actions for the protection of the Arctic. Soviet Secretary General Mikhail Gorbachev's Murmansk speech, in which he called for international cooperation to turn the Arctic into a "zone of peace", had set the tone.²⁴ Two years later the same nations formally adopted an Arctic Environmental Protection Strategy (AEPS) and a joint action plan.²⁵ The AEPS joint plan concentrated on cooperation in scientific research, sharing of data about pollution, and an assessment of the environmental impacts of development activities. The AEPS was unique in bridging the Cold War divide and including representatives from the indigenous peoples of the Arctic region.

From the AEPS a more comprehensive governmental institution evolved: the Arctic Council (AC). On a Canadian initiative, the Council was established through a resolution adopted by officials of eight Arctic States in 1996 – i.e., not in the form of a treaty. In this Ottawa Declaration the eight set up a high-level intergovernmental forum to address the great Arctic challenges, recognizing among other things that these demanded scientific answers to help policy-makers devise appropriate solutions.²⁶ For this purpose the four working groups origi-

²³ "Polar Code, Defining rules of Arctic shipping", 23 March 2012, www.dnv.com/industry/maritime/.../publications/.../Polarcode.as.

²⁴ "Gorbachev calls for Peace, Cooperation in the Arctic", AP News Archive, 1 October 1987, www.apnewsarchive.com/1987/Gorbachev-Calls-For-Peace-Cooperation-in-Arctic/id-...

²⁵ Arctic Environmental Protection Strategy, AEPS, 1991, Rovaniemi, June 1991, www.arctic-council.org/index.php/en/about/documents/file/53-aeps; Rovaniemi Declaration on the Protection of the Arctic Environment, 14 June 1991, <http://arcticcircle.uconn.edu/NatResources/Policy/rovaniemi.html>.

²⁶ Declaration on the Establishment of the Arctic Council, and Joint Communiqué of the governments of the Arctic Countries on the Establishment of the Arctic Council, 19 September 1996, <http://www.arctic-council.org/index.php/>

nally created for the AEPS – dealing respectively with Arctic monitoring and assessment programme (AMAP), conservation of Arctic flora and fauna (CAFF), emergency prevention, preparedness and response (EPPR), and protection of Arctic marine environment (PAME) – were integrated into the Arctic Council. A new sustainable development working group (SDWG) was established and with it the AC's mandate broadened. In a slow process of further evolution the AC took up several other issues, hesitantly built up its own institutions, and in 2012 its member states found a way for concluding a first internationally binding agreement – a Search and Rescue Treaty. Today the Arctic Council (AC) is the very linchpin of Arctic governance.

THE DEVELOPMENT OF THE ARCTIC COUNCIL INTO A MULTILATERAL GOVERNANCE STRUCTURE

Initially, there was not much organizational difference between the Arctic Council and the group of actors that had come together to adopt the AEPS. The members were the same, although in the light of the Faroe Islands' and Greenland's new self-government status, at the Nuuk meeting in 2011 their representatives were treated as members in their own right for the purpose i.a. of signing communiqués and documents.²⁷ As noted, the founders of the Arctic cooperation had taken special care to provide for active participation of the Arctic indigenous representatives; and within the Council, the representatives from the indigenous communities' organizations became Permanent Participants (PP).²⁸ Current PPs are the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North (RAIPON) and the Saami Council.

The Senior Arctic Officials, SAO (previously Senior Arctic Affairs Officials, SAAO), now have a much wider and more active agenda to address than before: in their semi-annual meetings they not only prepare the Ministerial meetings, but coordinate their follow-up. They also discuss ongoing actions and approve or comment on future projects, and thus stake out a role as dynamic movers in Arctic affairs. As Linda Nowlan puts it: "the change from a strategy coordinated by Arctic states, the AEPS, to an organization that includes the Strategy and other elements, the Arctic Council, happened in a relative short time frame".²⁹

Non-Arctic countries and organizations can become observers if they have a stake in Arctic affairs – such as a reputable Polar research programme – and accept and support the AC's objectives. But neither the Ottawa Declaration on the Establishment of the AC nor its original Rules of Procedure specify the admission procedure and role of permanent observers.³⁰ In 1998 four countries were invited as permanent observers – Germany, the Netherlands, Poland and the United Kingdom – and France and Spain were admitted in 2000 and 2006 respectively. These nations were selected because of their earlier contributions to implementing the AEPS. In a discussion launched at the 2011 Nuuk Ministerial, AC members discussed lon-

²⁷ A high official has indicated that at future meetings Greenland and the Faroes might not be seated as participants in their own right (Conversation with the author at the Swedish Foreign Ministry, December 2012).

²⁸ Rules of Procedure as adopted by the First Arctic Ministerial Council Meeting, Iqaluit, Canada, 17-18 September 1998, <http://www.arctic-council.org/index.php/en/document-archive/category/4-founding-documents>

²⁹ Linda Nowlan (2001), "Arctic legal regime for environmental protection", as quoted by Timo Koivurova (2011), "Limits and possibilities of the Arctic Council in a rapidly changing scene of Arctic governance." *Polar Record*, vol. 46, no. 237, pp. 146-156 (p. 147).

³⁰ The term 'permanent' observer is in common use to distinguish the states/organizations in question from *ad hoc* invitees, but it is no longer applied strictly. See Rules of Procedure as adopted by the First Arctic Ministerial Council Meeting, Iqaluit, Canada, 17-18 September 1998, <http://www.arctic-council.org/index.php/en/document-archive/category/4-founding-documents>.

ger-term criteria for observership and reached consensus that observers (including any new ones accepted) must respect the principles as laid down by the AC, recognize the Arctic States' sovereignty and sovereign rights, and share the values, interests, culture and traditions of the Arctic indigenous peoples and other Arctic inhabitants.³¹ So long as the AC statutes do not provide for an observers' category, however, the status of all such partners is subject to review and possible change at each ministerial meeting. Observers already admitted within the present AC system also include a number of inter- and non-governmental organizations, among them the Nordic Council of Ministers (NC), the International Arctic Science Committee (IASC), the Red Cross and others.³²

Since 2006, no new observer country or organization has been admitted. Outstanding applications from countries such as China, India, Italy, Japan, South Korea, and Singapore and from the EU have prompted lengthy discussions among members as to whether the AC will benefit from bringing such new voices into the tent, or whether this will detract from the AC's original mission. Up to the time of writing there has been no agreement to give such new applicants more than an *ad hoc* observer status at Council meetings.³³ Representatives from the indigenous peoples have warned that "when we talk about the future of the Arctic people, what we need to be talking about is how we are going to protect our land, our people, our lifestyles and our cultures as Arctic people in a time when we have international interests in resources in our land."³⁴ Another argument can be summarized as follows: "The more members are in the club, the harder it is to negotiate something." Opposition to giving permanent observer status to the EU has mainly come from the indigenous representatives who defend their traditional rights to hunt seals, small whales and polar bears and object to the EU's ban on seal products. A further grievance has been the EU's and China's championship of principles of free navigation through the Arctic passages, which challenges the existing rules laid down by Russia and Canada in particular. Because the AC acts by consensus, each member can block any new applicant. Observers are motivated by their interest in Arctic resources, while opponents to inviting new permanent observers are anxious about the negative impact of economic development in the Arctic regions on its inhabitants.

As noted above, at their Nuuk meeting in May 2011 the Senior Arctic Officials presented to Ministers a detailed report on strengthening the Arctic Council institutionally.³⁵ In an annex they specified criteria for admitting new observers and their role and participation in the Council. Though they built on the standards practiced before, these conditions would now severely circumscribe the observers' role. In sum, non-Arctic countries should be pure observers and not meddle in Arctic affairs, even though their political support and their financial contributions to the work of the AC were welcome. To prevent indirect influence by non-Arctic entities, the proposals even specified that their financial contributions to any given project must not exceed the financing from Arctic states. This approach reflected among other things

³¹ For criteria for admitting observers and role for their participation in the Arctic Council, see Senior Arctic Officials (SAO) Report to Ministers, Annex, Nuuk, Greenland, May 2011, <http://library.arcticportal.org/1251>.

³² The Arctic Council – Observers, www.arctic-council.org/index.php/en/about-us/partners-links.

³³ After work on this paper was completed, on 15 May 2013, the AC's Kiruna Ministerial meeting agreed to admit China, India, Italy, Japan, South Korea and Singapore as observer states but to defer a decision on the European Union's application. The remainder of this paragraph may now read as background on the lead-up to that decision.

³⁴ Canada as an Arctic Power: Preparing for Canadian Chairmanship of the Arctic Council (2013-2015), May 2012, p. 7, gordonfoundation.ca/node/531.

³⁵ The Arctic Council, Senior Arctic Officials (SAO) Report to Ministers, Annex 1, adopted by the Arctic Council at the First Council Meeting, Iqaluit, Canada, 17-18 September 1998, <http://www.arctic-council.org/index.php/en/document-archive/category/4-founding-documents>.

Arctic countries' concern that powerful, global players should not jeopardize the consensus they had reached on government principles: as an example, outside voices often advocated a comprehensive Arctic Treaty, which all eight AC members had rejected.³⁶ A decision as to which new country or countries should be admitted under the new criteria was deferred to the 2013 Ministerial in Kiruna.³⁷ Other institutional improvements agreed at Nuuk were the decisions on establishing a permanent AC secretariat at Tromsø – which opened its doors in February 2013. A project to improve the AC's public communications policy to enhance its outreach capability was realized in May 2012 when the Deputy Ministers and SAO approved a new Arctic Council Communication Strategy.³⁸

A change in substance and focus of the AC's work took place when the Council discussed the Arctic Climate Impact Assessment (ACIA) and published its ACIA report in 2004. This document introduced a shift in perspectives on how the world viewed the Arctic; it also affected global awareness of environmental change happening in the region. While most people had initially conceived of the Arctic as a 'frozen desert' – as the text of the AEPS read – now the metaphor of an 'Arctic in change' was introduced in the ACIA. According to Timo Koivurova, this “dramatically changes the way we perceive of the Arctic. Instead of the 'frozen desert' image ... it became almost the opposite, a region undergoing a vast and long transformation process.”³⁹ At the same time (2004), the Arctic Human Development Report – the first of its kind for the region – addressed the consequences of change for both indigenous and non-indigenous Arctic populations.⁴⁰ Providing anticipatory evidence has now become a major task for the Arctic Council.

For some years in the 2000s, however, the Arctic Council found itself being marginalized in high-political and procedural terms.⁴¹ As a reaction to the increased attention the Arctic received after the publication of the Arctic Climate Impact Assessment and the Russian flag-planting show at the Pole, the five Arctic Ocean States – Canada, Denmark, Norway, Russia and the U.S. – felt that they had to reassert their interests and their control. They were frustrated about the limited range of agenda items to be discussed at AC meetings and the large number of participants. Among other things, when the AC was created in 1996 matters related to military security were – at US request – explicitly excluded from its agenda.⁴² Following an invitation from the Danish government, this group of five – the A-5 as they were later called – met in a smaller forum in May 2008 at Ilulissat, Greenland and made several important political statements. In their “Ilulissat Declaration” the five implicitly repudiated the proposal for a comprehensive Arctic Treaty – commonly advocated by its supporters by analogy with

³⁶ Piotr Graczyk and Timo Koivurova, “A new era in the Arctic Council's external relations? Broader consequences of the Nuuk observer rules for Arctic governance.” *Polar Record*, Cambridge University Press 2013, pp. 1-12.

³⁷ See note 34 above. The documents adopted at Kiruna are now available at www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting.

³⁸ Arctic Council Communications Strategy. Final draft. February 2012, www.arctic-council.org/.../118-deputy-ministers-meeting-stockholm-...

³⁹ Timo Koivurova (2012), “Limits and possibilities of the Arctic Council”, p. 149; and Klaus Dodds (2012), “Anticipating the Arctic and the Arctic Council: Pre-emption, Precaution and Preparedness”, p. 18; *The Arctic Council, Its Place in the Future of Arctic Governance*, Eds. Thomas Axworthy, Timo Koivurova and Waliul Hasanat, Toronto, Munk School of Global Affairs. http://gordonfoundation.ca/sites/default/files/publications/The%20Arctic%20Council_FULL_1.pdf.

⁴⁰ United Nations Development Program (2004), *The Arctic Human Development Report of 2004*, <http://hdr.undp.org/en/reports/regionalreports/other/name,3262,en.html>. See note 7 above.

⁴¹ Torbjørn Pedersen (2012), “Arktisk Råds rolle i Polarpolitikken.” *Nordlit* 29, <http://septentrio.uit.no/index.php/nordlit/article/view/2314>.

⁴² Declaration on the Establishment of the Arctic Council, Ottawa, Canada, 19 September 1996, www.arctic-council.org/index.php/en/about/documents/file/13-ottawa-declaration.

the Antarctic Treaty of 1961 – but committed themselves to the responsible management of the region and to strengthening mutual cooperation. They pledged to solve conflicts within the existing framework of the international law of the sea and at multilateral forums such as the Arctic Council.⁴³ The ministers met again in the A-5 format at Chelsea, Quebec, in March 2010. There, in order to prevent any further division among the Arctic states, US Secretary of State Hillary Clinton suggested that in the future the A-5 should only meet at a senior officials level. Realizing now that the Polar Region was crucial for its security, the U.S. together with the left-out nations pushed for reinstalling the AC as a priority Arctic forum for consultation and cooperation.

The scientific origins and distinctive composition of the Arctic Council are mirrored in its weak organizational structures. The Council can only move as far and as fast as its members are prepared to go. Chairs rotate among members and ministerial meetings take place every two years in the presiding country, which had also provided a secretariat and limited administrative services. With growing activities Arctic countries began to think about establishing a permanent secretariat as an element of strengthening the AC's role. At their Nuuk Ministerial Meeting they accepted a Norwegian invitation to set up to a small, standing AC Secretariat at Tromsø. In a deviation from previous rules, the secretariat is financed by members' financial contributions. Hitherto all expenses had been covered according to the principle that costs lie where they fall, and by voluntary contributions from member and observer countries.⁴⁴ The lack of a cost-sharing formula is a special hardship to the indigenous representatives and has circumscribed their participation in Council meetings, AC projects, working groups and task forces. Occasionally it has been suggested that the rich observer countries should support the involvement of indigenous peoples with special financial contributions, but at Nuuk – as noted above – the members adopted rules to pre-empt the possibility of the AC's work being dominated by any rich non-Arctic country.⁴⁵

Today, the Arctic Council is the most prominent and visible Arctic institutional actor in the region. It is not a decision-making organization, but rather a decision-shaping body based on consensus. Its primary function is to enable international cooperation on the environmental protection and the sustainable development of the Arctic. "As a producer and circulator of ideas and presentations the Arctic Council helps to spatially order the Arctic region."⁴⁶ It is unique among international organizations because it grew out of practical regional activities, originally constituting little more than an umbrella for a number of specialized working groups, while recognizing their activities and providing suggestions for their further work.

⁴³ Ilulissat Declaration, Ilulissat, Greenland, 28 May 2009, [www.oceanlaw.org/downloads/arctic/Ilulissat Declaration.pdf](http://www.oceanlaw.org/downloads/arctic/Ilulissat%20Declaration.pdf).

⁴⁴ In May 2012 the Arctic Council Secretariat released Terms of Reference and Financial Rules for its operation, www.arctic-council.org/.../118-deputy-ministers-meeting-stockholm-

⁴⁵ Nuuk Declaration, 7th Ministerial Meeting of the Arctic Council, 12 May 2011, Nuuk, Greenland, <http://www.arctic-council.org/index.php/en/document-archive/category/5-declarations>.

⁴⁶ Dodds (2011), "Anticipating the Arctic and the Arctic Council", p. 12, gordonfoundation.ca/sites/default/files/publications/The%20Arctic%20Council_FULL_1.pdf.

THE WORK OF THE ARCTIC COUNCIL

The AC's scientific work is undertaken by expert working groups (WG) and task forces (TF) that each operate according to a specific mandate. Every WG has a chair from an AC member country, and a management board or steering committee made up of representatives from national government agencies and Permanent Participants; it is further supported by a secretariat. But WGs are not autonomous: they regularly report to the Senior Arctic Officials who, if necessary, adapt working group and task forces' mandates, and prepare a summary report for the Ministerial meetings. The current six WGs are:⁴⁷

1. The Arctic Contaminants Action Plan Working Group (ACAP): The mandate of this group is to provide information and encourage Arctic states to take remedial and preventive actions relating to contaminants and other releases of pollutants.
2. The Arctic Monitoring and Assessment Program Working Group (AMAP): The mandate of this group is to provide reliable and sufficient information on the status of, and threats to, the Arctic environment, and provide scientific advice on actions to be taken in support of Arctic governments' remedial and preventive efforts relating to contaminants.
3. The Conservation of Arctic Flora and Fauna Working Group (CAFF): this is the AC's Biodiversity Working Group and its mandate addresses the conservation of Arctic biodiversity. It communicates its findings to the governments and residents of the Arctic, helping to promote practices that ensure the sustainability of the Arctic's living resources. Successfully conserving the natural environment in the face of rapidly increasing development requires accurate baseline data on long-term status and trends of Arctic biodiversity, habitats and ecosystem health. CAFF projects provide data for informed decision-making in resolving the challenges that arise when trying both to conserve the natural environment and facilitate regional growth. This work is based upon cooperation among all Arctic countries and indigenous organizations. The Arctic Council's Circumpolar Biodiversity Monitoring Program (CBMP) is an international network of scientists, government agencies, indigenous organizations and conservation groups that work together to harmonize and integrate efforts to monitor the Arctic's living resources.
4. The Emergency Prevention, Preparedness and Response Working Group (EPPR): The mandate of this group is to deal with the prevention of, preparedness for and response to environmental emergencies in the Arctic. In 2012 the working group reached

⁴⁷ Foreign Affairs and International Trade Canada, Arctic Council, www.international.gc.ca/polar-polaire/council-conseil.aspx?view=d; see also Senior Arctic Officials (SAO) Report to Ministers, Nuuk, Greenland, May 2011, SAO_Report_to_Ministers_-_Nuuk_Ministerial_Meeting_May_2011.pdf.

consensus on a draft agreement concerning oil spill preparedness and response, whether from ships or from off-shore oil wells.⁴⁸ The text was negotiated by a Task Force on Arctic Marine Oil Pollution Preparedness and Response that was created at the Arctic Council Ministerial in Nuuk, Greenland, in 2011.

5. The Protection of the Arctic Marine Environment Working Group (PAME): The mandate of this group is to address policy and non-emergency pollution prevention and control measures related to the protection of the Arctic marine environment from both land and sea-based activities. Its work includes coordinated action programmes and the production of guidelines complementing existing legal arrangements. One result of PAME projects and initiatives was the 2009 Arctic Marine Shipping Assessment (AMSA) Report and the current phase of the Arctic Ocean Review Project.
6. The Sustainable Development Working Group (SDWG): The goal of the sustainable development programme of the Arctic Council is to propose and adopt steps to be taken by the Arctic States to advance sustainable development in the region, including opportunities to protect and enhance the environment and the economies, culture and health of indigenous peoples and Arctic communities, as well as to improve the environmental, economic and social conditions of Arctic communities as a whole. The guiding principle of the SDWG's work is to pursue initiatives that provide practical knowledge and contribute to building the capacity of indigenous peoples and Arctic communities to respond to the challenges and benefit from the opportunities emerging in the Arctic region. Key areas of activity for the group include, but are not limited to: Arctic human health; climate change adaptation; Arctic socio-economic issues; Arctic cultures and languages; energy and Arctic communities; and management of natural resources.

In addition to the working groups the AC has several temporary task forces (TF) that operate within the framework of the Council. The task forces are appointed at the Ministerial meetings to work on specific issues for a limited amount of time. They are active until they have produced the desired results. Experts from the working groups and representatives from the member states take part in the task forces. Below is a summary of currently active Arctic Council task forces.

- Task Force on Institutional Issues: In the Nuuk Declaration of May 2011 the Ministers decided to strengthen the capacity of the Arctic Council to respond to the challenges and opportunities facing the Arctic by establishing a standing Arctic Council secretariat in Tromsø, Norway, to be operational no later than at the beginning of the Canadian chairmanship of the Arctic Council in 2013. Besides aiding in the planning of the permanent Secretariat in Tromsø, the Task Force was mandated to implement the decisions to strengthen the Arctic Council, including any other necessary arrangements.
- The Task Force on Arctic Marine Oil Pollution Preparedness and Response was also created at the Arctic Council Ministerial Meeting in Nuuk, Greenland in 2011 (cf. above). The mandate of this Task Force was to develop an international

⁴⁸ This Agreement was adopted by the member states at Kiruna on 15 May 2013, see Annex to Kiruna Senior Arctic Official's Report to Ministers. www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting.

instrument on Arctic marine oil pollution preparedness and response. The SAO at their meeting in Stockholm in October 2012 approved the resulting draft agreement, to be presented to the Ministers at the Kiruna Ministerial in May 2013.⁴⁹

- With the Tromsø Declaration (April 2009) the Arctic Council established a Task Force on Short-Lived Climate Forcers (black carbon, methane, and tropospheric ozone) with a mandate to exchange information on measures to address SLCFs in the Arctic States and develop recommendations for voluntary actions to reduce emissions. The Task Force initially focused on black carbon, and presented a Progress Report and Recommendations for Ministers to the Arctic Council Ministerial, May 12, 2011. These were endorsed and the Task Force went on to complete a study on Methane Emissions to Slow Arctic Climate Change (including ozone emissions), to be presented to the Kiruna Ministerial meeting in 2013.⁵⁰
- In 2009 the Arctic Council Ministers established in a Task Force on Search and Rescue. Comprising delegations from the eight Arctic states, it met five times and concluded negotiations in December 2010 on the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic, which was signed by all eight Arctic countries at the 2011 Ministerial Meeting in Nuuk and has now entered into force. Canada serves as the legal depository for the Agreement.

Working groups' assessment reports have been described as "social processes at the interface of science and policy"⁵¹; they are considered among the most effective products of the Arctic Council. As working groups are relatively independent and have their own funding, occasionally problems of duplication and diverging recommendations arise. Scholars have emphasized the need for better integration of the different dimensions of Arctic-related knowledge and expressed the hope that the new secretariat will be able to coordinate the WGs' work. What is indeed missing is a data bank bringing together the wealth of the WGs' scientific expertise, making it available to researchers within and beyond the Arctic region and to policy-makers alike. Also needed are mechanisms for linking the AC and its work (at more than a personal and *ad hoc* level) to the many other national and institutional research programmes

⁴⁹ The Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic was adopted at the Kiruna Ministerial on 15 May 2013, see Annex to Kiruna Senior Arctic Official's Report to Ministers. www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting. The Kiruna meeting also set up a new Task Force to address its implementation.

⁵⁰ Recommendations to Reduce Black Carbon and Methane Emissions to Slow Arctic Climate Change. Annex to Kiruna Senior Arctic Official's Report to Ministers.

⁵¹ Annika E. Nilsson (2012), "Knowing the Arctic: The Arctic Council as a Cognitive Forerunner." The Arctic Council: Its Place in the Future of Arctic Governance, Eds. Thomas Axworthy, Timo Koivurova and Waliul Hasanat, Munk School of Global Affairs, p. 194, http://gordonfoundation.ca/sites/default/files/images/Jan17%20-%20Nilsson_KnowingtheArctic.pdf

on the Arctic – including the IASC but also the University of the Arctic and Northern Research Forum;⁵² with observer institutions, and with NGOs.⁵³

A watershed in the AC's work has been the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue. The Search & Rescue Agreement⁵⁴ has been a big leap forward in emergency management. For each party it defines an area of the Arctic in which it has a lead responsibility in organizing responses to search and rescue incidents. The agreement also commits parties to provide appropriate assistance in the event of such an incident and to take other steps to address the growing search and rescue needs in the Arctic region. As already mentioned, the agreement is the first legally binding accord member states have agreed upon; but it also expands the practical coverage of the AC, which had previously excluded security issues from its agenda.

Several recent accidents have underlined the urgency of building effective emergency management systems in the Arctic. In the case of an aircraft crash near Resolute in 2011, survivors were helped by hundreds of military personnel that were already in the region taking part in "Operation Nanook", the Canadian military's annual northern training exercise. When the Canadian Clipper Adventurer struck an uncharted rock in the waters of Western Nunavut, however, the CCG ice breaker Amundsen had to travel 500 miles, taking more than two days to conduct rescue operations. Passengers were saved only because of good weather and calm seas.⁵⁵

Drawing up the Search & Rescue Agreement has also triggered a debate within the AC on whether to include or exclude non-Arctic states in this exercise. Arctic working groups and task forces in general welcome the participation of non-Arctic experts. However, when the German and the U.K. governments, because of their wide experience with S&R activities, offered to contribute advice to the negotiations, they were told that it was up to the Arctic countries to frame the S&R agreement. Consequently, the existing Agreement's membership is limited to the eight Arctic Council states, although they might call on EU, NATO and other capabilities in addition to their own Coast Guard units in order to discharge their duties under the S&R Agreement. This issue highlights the tension between the sovereign rights of the AC members and the idea of a cooperative, non-zero-sum multilateral system for which the Arctic Council stands.

Sharing common interests in protecting the pristine Arctic environment and bolstering regional stability, as well as following similar economic and security agendas, have drawn the Arctic states closer together. Currently there is a lively debate about strengthening the AC's institutions to make them more effective. Some members, such as the U.S., are, however, concerned about any potential circumscription of their room for political manoeuvre. While Washington looks at the Arctic Region in terms of homeland security,⁵⁶ the Nordic members

⁵² For the University of the Arctic see www.uarctic.org, and for the NRF, www.nrf.is.

⁵³ Paula Kankaanpää (2012), "Knowledge Structures of the Arctic Council for Sustainable Development". *The Arctic Council: Its Place in the Future of Arctic Governance*, Eds. Thomas Axworthy, Timo Koivurova and Waliul Hasanat, Munk School of Global Affairs, <http://gordonfoundation.ca/publications>.

⁵⁴ Arctic Council, *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue*, May 2011, http://library.arcticportal.org/1251/1/SAO_Report_to_Ministers_-_Nuuk_Ministerial_Meeting_May_2011.pdf.

⁵⁵ "Canadian Rescue Capacity Questioned in Wake of Arctic Ship Grounding", www.canada.com/news/Canadian+rescue+capacity+questioned+wake+Arctic+ship+grounding/3457291/story.html.

⁵⁶ [U. S.] *National Security Presidential Directive and Homeland Security Presidential Directive # 66*, 9 January 2009, www.fas.org/irp/offdocs/nspd/nspd-66.htm.

have a different perspective; they want to integrate economic-ecological and political-security issues under the AC's auspices.

The signing of the S&R Agreement has stimulated expectations that the Arctic Council could become a platform for negotiating functional legally binding agreements. So far, member countries have not yet reached agreement the AC's future role. At the Nuuk Meeting the Ministers decided to strengthen the capacity of the Arctic Council to respond to the challenges and opportunities facing the Arctic.⁵⁷ It was also their hope that the Council as a regional actor and advocate for the region could introduce Arctic matters into a broader international environment.⁵⁸ The AC's current mandate, however, does not really tackle these and other substantial limitations of its competences and capabilities for action such as settling territorial claims, physical and environmental aspects of economic exploitation, and states' security concerns and military activities. Is there a formula under which the Council's agenda and effectiveness could be enhanced while at the same time preserving members' autonomy? What room for manoeuvre do the Arctic countries strategies allow?

⁵⁷ Arctic Council Nuuk Ministerial Meeting, 12 May 2011, www.arctic-council.org/index.php/en/about-us/task-forces/281-task-force-for-institutional-issues.

⁵⁸ Piotr Graczyk (2012), "The Arctic Council Inclusive of Non-Arctic Perspectives: Seeking a New Balance." *The Arctic Council: Its Place in the Future of Arctic Governance*, Eds. Thomas Axworthy, Timo Koivurova and Waliul Hasanat, Munk School of Global Affairs, p. 268, gordonfoundation.ca/sites/default/files/publications/The%20Arctic%20Council_FULL_1.pdf.

NATIONAL STRATEGIES OF ARCTIC COUNTRIES

Arctic countries are challenged to find solutions to the parallel dilemmas of earning economic profits while minimizing ecological harm, and of providing for human welfare while avoiding the disruption of traditional societies. Only in a stable political environment, and when they harmonize their priorities with those of the other Arctic entities, can they hope to reap the economic benefits of the Arctic's natural riches. For this, they need both national and multi-lateral strategies.

The Arctic Council's limited mandate can to some extent be explained by the Arctic countries' strong attachment to their sovereign rights and the variety of their interests, which in turn reflect different geo-strategic positions, historical experiences, size and population, economic and military power. Climate change confronts the Arctic countries both with common and with different challenges. At the outset they reacted by devising their own national Arctic strategies, designed to safeguard their sovereignty and security, and to create positive conditions in which the natural resources of the region could be exploited for the benefits of their own economies.⁵⁹ At the same time they knew that only together with the other Arctic states could they draw sustainable profit from the region's natural resources situated on and under their territory and in the adjoining shelf areas. Both the AEPS and the AC serve these aims, but Arctic states prioritize and make use of cooperative methods to different degrees. Most circumpolar littoral states are very concerned not to let their national sovereignty be circumscribed and their room for political manoeuvre be infringed. They do, however, recognize the "transnational" nature of some challenges, like climate change, that cannot be limited to any one state's jurisdiction. Finland, Iceland and Sweden tend to place more emphasis on multi-lateral approaches, which they see as important for stability and efficiency, but also for giving themselves a voice. When, and under what circumstances are multilateral methods in practice given priority compared to national strategies? Has there been a specific pattern of interaction between the two approaches?

Among the first countries to devise an Arctic strategy was Norway. Based on a 2004-2005 report to the Storting and in the context of further developing the northern part of the country, in 2006 the Norwegian Government issued a new High North Strategy.⁶⁰ Because of the

⁵⁹ Alyson J.K. Bailes & Lassi Heininen, *Strategy Papers on the Arctic or High North: a comparative study and analysis*. Reykjavik: Institute of International Affairs, University of Iceland, 2012; Lassi Heininen, "The State of Arctic Strategies and Policies – A Summary." *Arctic Yearbook 2012*, Northern Research Forum and: University of the Arctic 2012, pp. 2-46.

⁶⁰ *Opportunities and Challenges in the North: Report No. 30 (2004-2005) to the Storting*, ed. by the Norwegian Ministry of Foreign Affairs, 2005; Norwegian Ministry of Foreign Affairs, *The Norwegian Government's High North Strategy, 2006*, www.regjeringen.no/upload/UD/Vedlegg/strategien.pdf; the 2009 follow-up document mainly focused on the socio-economic development of the North, *New Building Blocks in the North: The next Steps in the Government's High North Strategy, 2009*, www.regjeringen.no/upload/UD/Vedlegg/Nordområdene/new_building_blocks_in_the_north.pdf; Ministry of Foreign Affairs, *The High North – Strategy priorities and results*, December 2011, www.regjeringen.no/en/dep/ud/campaigns/the-high-north/strategies_priorities.html?id=663580; *The High North – Visions and Strategies*. The Norwegian Government's White Paper on the High North, November 2011, www.regjeringen.no/

country's dependence on the Arctic's rich natural resources, including fish and hydrocarbons, Norway has long experience in sustainable resource management in the North. In the future it will base its activities on an Integrated Management Plan for the Barents Sea and the sea areas off Lofoten.⁶¹ The idea is that all human activity, such as fishing, transport, and oil and gas production, must be managed in such a way that ecosystems are not harmed. Though the major focus of the High North Strategy has been domestic, its implementation has to be seen in the context of the Barents region. Already in 1993 Norway took the initiative to establish the Barents Euro-Arctic Council (BEAC) as a framework for intergovernmental and local-government cooperation on issues concerning this area.⁶² In its 2006 strategy document Norway emphasized that it also wants to build friendly relations with Russia and strengthen cooperation with Moscow on various levels.⁶³ One important fruit has been the 2010 Norwegian-Russian treaty on the delimitation of the two countries' Barents Sea border.

Norway values the work of both the Arctic Council and the Nordic Council (NC), but because it shares a short land border and a long sea border with Russia, and because Russia is a member of the Arctic Council and the BEAC, Oslo favours using both of the latter institutions for Arctic-related purposes. When Norway assumed the chair of the Arctic Council for the period of 2006-2009 it announced that the sustainable use of the Arctic's natural resources would be a high priority during its chairmanship. Norway further wanted to make the Arctic a leading region in reducing greenhouse gases, and to work for strengthening international cooperation more generally on issues related to global climate change. Besides establishing a temporary secretariat at Tromsø to serve the Council, Norway also agreed to coordinate its programme for the AC chairmanship with the programmes of Denmark and Sweden, thus arriving at a coordinated programme for the 2006-2013 period.⁶⁴

Denmark's Strategy for the Arctic was preceded by a joint Greenlandic-Danish draft published in May 2008. While this draft served the purpose of embedding Greenland in Denmark's Arctic Strategy and of clarifying its representation in international relations, the final document aimed at positioning the Kingdom of Denmark, including Denmark, Greenland and the Faroe Islands, as an active player in the Arctic. The paper affirms the government's commitment to work for "a peaceful, secure and safe Arctic; with sustainable growth and development; with respect for the Arctic's fragile climate, environment and nature; and in close cooperation with our international partners."⁶⁵ In this endeavour Denmark will cooperate closely with the other Nordic countries wherever possible.

Denmark's programme as chair of the Arctic Council for the period 2009–2011 prioritized attention to the peoples of the Arctic, the International Polar Year (IPY) legacy, cli-

upload/UD/Vedlegg/Nordomr%C3%A5dene/UD_nordomrodene_innmat_EN_web.pdf. Oslo uses the term "High North" to describe policies directed at the Norwegian North, Bear Island and the Svalbard Archipelago and the Barents Region.

⁶¹ [Integrated Management Plan for the Barents Sea and the sea areas off Lofoten](http://www.regjeringen.no/en/dep/md/Selected-topics/hav--og-vannforvaltning/havforvaltning/integrated-management-of-the-barents-sea.html?id=87148), March 2006, [www.regjeringen.no/en/dep/md/Selected-topics/hav--og-vannforvaltning/havforvaltning/integrated-management-of-the-barents-sea.html?id=87148](http://www.regjeringen.no/en/dep/md/press-centre/Press-releases/2011/updated-version-of-the-integrated-manage.html?id=635584), updated November 2011, www.regjeringen.no/en/dep/md/press-centre/Press-releases/2011/updated-version-of-the-integrated-manage.html?id=635584.

⁶² BEAC members are Norway, Denmark, Finland, Iceland, Russia and Sweden (plus observers and a representative from the EU Commission); it meets at foreign ministers' level and works on a number of projects benefiting the peoples of the Barents region; www.beac.st/in_English/Barents_Euro-Arctic_Council.iw3.

⁶³ None of the other Arctic countries has been mentioned in these Norwegian documents.

⁶⁴ "Norway assumes chairmanship of the Arctic Council", www.norway.sk/ARKIV/Old_web/policy/environment/polar/arcticcouncil/.

⁶⁵ [Arktis i en brydningstid. Forslag til strategi for aktiviteter i det arktiske område](http://arcticportal.org/images/stories/pdf/DANSK_ARTISK_STRATEGI.pdf), http://arcticportal.org/images/stories/pdf/DANSK_ARTISK_STRATEGI.pdf; Kingdom of Denmark, Strategy for the Arctic 2011-2020, http://um.dk/en/~media/UM/English-site/Documents/Politics-and-diplomacy/Arktis_Rapport_UK_210x270_Final_Web.pdf.

mate change, biodiversity, mega-trends in the Arctic, integrated resource management, and operational cooperation. Copenhagen deplors the AC's limitations and its inability to fulfil its mandate as a sustainable Arctic organization, and has therefore backed efforts to enlarge the Council's agenda and extend its mandate. When it invited Canada, Norway, Russia and the U.S. to a meeting of the Arctic Ocean Coastal States at Ilulissat, Greenland – much to the anger and envy of those AC members that were left out – Copenhagen was among other things seeking to overcome the limitations of the AC's mandate and enable the five directly affected countries to agree on a broad set of political guidelines. The important points agreed at the resulting Ilulissat meeting have already been noted above.⁶⁶ Overall, the Ilulissat meeting was a milestone in Arctic collaboration and the declaration of the five Polar Sea states has become a fundamental reference point for discharging their responsibilities.

Sweden was the last AC member state to develop an Arctic Strategy; it did so in preparation for its assumption of the AC chair for the period 2011-2013. Sweden's Arctic strategy is based on the perception of far-reaching changes in the Arctic region, where climate change creates new challenges but is also providing new opportunities. Sweden will promote economically, socially and environmentally sustainable developments throughout the Arctic region. It will also work to ensure that the Arctic remains a region where conflicts are avoided and tensions are low.⁶⁷ For these objectives Stockholm sees a need for a strengthened Arctic Council, and it has furthered that goal during its chairmanship with the decisions – mentioned above – to establish a permanent AC secretariat in Tromsø, to approve a joint AC communication strategy and to prepare an agreement on oil spill preparedness and response.⁶⁸

The next chair of the Arctic Council will be Canada. It sees itself as an Arctic country because about 40% of Canada's territory is situated north of the Arctic Circle. However, the Northwest Territories, Yukon, and Nunavut have together only a population of about 110,000 people – of whom 52.8% are indigenous peoples – compared to a population of about 35 million in the rest of Canada. New finds of natural resources, a rise in Arctic tourism and growing concern about Canada's national integrity and security have caused the government of Prime Minister Stephen Harper to emphasize that “Canada has a choice when it comes to defending our sovereignty in the Arctic; either we use it or we lose it”.⁶⁹ In order to avoid losing it, the government in the past two decades has been quite active in Arctic affairs.

After a lively though mainly academic domestic debate⁷⁰ the government in 2009 released “Canada's Northern Strategy: Our North, Our Heritage, Our Future”. It was published under the authority of the Minister of Indian Affairs and Northern Development and focused on the opportunities and challenges in the North. The document elaborated Canada's priority areas: exercising Arctic sovereignty; promoting social and economic development; protecting the North's environmental heritage; and improving Northern governance so that the Northerners have a greater say in their own destiny. A “Statement on Canada's Arctic Foreign Policy”

⁶⁶ The Ilulissat Declaration, Arctic Ocean Conference, Ilulissat Greenland, 27-29 May 2008, www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf.

⁶⁷ [Sweden's Strategy for the Arctic Region](http://www.government.se/content/1/c6/16/78/59/3baa039d.pdf), www.government.se/content/1/c6/16/79/98/537a42bf.pdf; Sweden's Chairmanship Programme for the Arctic Council 2011–2013, www.government.se/content/1/c6/16/79/98/537a42bf.pdf; “Arctic challenges and the future perspectives of Arctic cooperation.” Speech by Carl Bildt, Minister of Foreign Affairs, at Carlton University, 17 May 2012, www.government.se/sb/d/15783/a/193302.

⁶⁸ Arctic Council Task Force on Arctic Marine Pollution Preparedness and Response, www.arctic-council.org/index.php/en/about-us/task-forces/280-oil-spill-task-force.

⁶⁹ PM Harper on Arctic: “Use it or lose it”, 10 July 2007, www.canada.com/topics/news/story.html?id=-7ca93d97-3b26-4dd1-8d92-8568f9b7cc2a.

⁷⁰ See Canadian International Council, [Foreign Policy for Canada's Tomorrow](http://www.canadianinternationalcouncil.org), # 1, 3 & 4, July 2009, www.canadianinternationalcouncil.org.

followed in 2010.⁷¹ Overall, Canada pursues a rather self-sufficient Arctic policy, making the region a key government priority but showing little inclination to prioritize international over national considerations.

While the first Canadian strategy document was directed at the peoples of the North and at developmental issues, the second added a foreign policy dimension aimed at creating a favourable international environment. Specifically mentioned in the latter is Canada's strategic engagement with its premier partner in the Arctic: the United States; but Ottawa will also work closely together with the other Arctic and non-Arctic countries. For Canada the main forum for circumpolar collaboration, especially on environmental issues, is the Arctic Council - which was indeed created through decisions taken on Canadian territory. In May 2013, when Ottawa again took over the AC chair, its designated Arctic Minister – Minister of Health Leona Aglukkaq – announced its priorities for the AC as creating conditions for dynamic economic growth in the North, vibrant communities, and healthy ecosystems. Mrs. Aglukkaq is the first person with an Inuit background to lead a member state's delegation at the Arctic Council. Her programme involves responsible resource development and accountable and safe Arctic shipping, and aims at sustainable circumpolar communities.⁷²

Since Secretary of State William H. Seward in 1867 bought Alaska from Tsarist Russia, the United States has been an Arctic country. In contrast to Canada, however, the Arctic region has for a long time not been at the centre of US public attention. During his very last days as President, George W. Bush signed a fairly uncontroversial Arctic strategy document which has remained in place since. Its top policy goal was meeting national security and homeland security needs relating to the Arctic region.⁷³ Only recently, when the Arab Spring put into doubt a sustained secure supply of oil from the Gulf region, did the Arctic's hydrocarbon resources come under closer US scrutiny – although this focus has in turn been modified by the boom in shale oil and gas. In February 2013, the White House announced a new plan setting seven priority areas of federally sponsored research on and for the Arctic region for the next five years.⁷⁴ On May 10, 2013 President Barack Obama signed a new Arctic strategy that commits the U.S. to “exercise responsible stewardship ... with the aim of promoting healthy, sustainable, and resilient ecosystems over the long term”.⁷⁵

The display of a stronger US political presence in the Polar region is hampered by the fact that Washington – because of opposition in the US Senate – has not yet acceded to the Law of the Sea Convention. The first and the present Obama Administrations, and in particular former Secretary of State Hillary Clinton, have repeatedly called for its urgent adoption. The

⁷¹ Department of National Defence, *Canada First Defence Strategy*, May 2008, www.forces.gc.ca/site/pri-first-premier/June18_0910_CFDS_english_low-res.pdf; “The Northern Dimension of Canada's Foreign Policy, 2008, www.international.gc.ca/polar-polaire/ndfp-vnpe2.aspx?view=d; *Canada's Northern Strategy. Our North, Our Heritage, Our Future*. Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, 2009, www.northernstrategy.ca; Statement on Canada's Arctic Foreign Policy: “Exercising Sovereignty and Promoting Canada's Northern Strategy Abroad, Ministry on Foreign Affairs and International Trade, 2010.” www.international.gc.ca/polarolaire/assets/pdfs/CAFP_booklet-PECA_livret-eng.pdf; “Statement on Canada's Arctic Policy”, 20 August 2010, www.international.gc.ca/polar-polaire/assets/pdfs/CAFP_booklet-PECA_livret-eng.pdf.

⁷² “Canada's Second Chairmanship of the Arctic Council.” Address by Minister Leona Aglukkaq at Arctic Frontiers Conference, 21 January 2013, Tromsø, Norway, <http://www.international.gc.ca/media/arctic-arctique/speeches-discours/2013/01/23a.aspx?lang=eng>.

⁷³ “National Security Presidential Directive and Homeland Security Presidential Directive”, No. 66, 9 January 2009, www.fas.org/irp/offdocs/nspd/nspd-66.htm.

⁷⁴ U.S. Office of Science and Technology, Arctic Research Plan FY2013 - FY2017, www.whitehouse.gov/sites/default/files/microsites/ostp/2013_arctic_research_plan.pdf.

⁷⁵ The President of the United States, National Strategy for the Arctic Region, May 2013, www.whitehouse.gov/sites/default/files/docs/nat_arctic_strategy.pdf.

U.S. is also limited in its ability to field a strong Arctic maritime force. For constabulary and research purposes the US Coast Guard disposes of just one medium icebreaker, the “Healey”; an older one, the “Polar Star”, is being retrofitted. There are plans for constructing (or possibly leasing) a new heavy polar icebreaker but their realization will take time and require additional funds. While Russia can rely on a large fleet of different types of icebreakers to mark its Arctic presence, the U.S. instead has to draw on its large fleet of nuclear submarines. Both the US Navy and the Coast Guard have, however, developed operational plans for the Arctic.⁷⁶ On the political level the U.S. participates in many bilateral and multilateral forums for promoting its interests in the region. One is the Arctic Council, which Washington values highly, but which it does not wish to see transformed into an international organization or its mandate substantially enlarged.

In September 2008, the then Russian President Dimitri Medvedev signed a new national Arctic strategy that was published in March 2009. This document should be seen in connection with several other strategy texts on Russia’s Maritime Doctrine (2001), Foreign Policy (2008), National Security (2009) and Energy (2010). In these doctrines Moscow underlines its claim to use the Arctic region as a strategic resource base capable of providing solutions for Russia’s social and economic problems.⁷⁷ Strategic security is relegated to a secondary priority; the aim is a favourable operational regime in the Arctic including new strategic nuclear submarines, a permanent combat potential of general-purpose troops and a strengthened Coastal Defence Service,⁷⁸ all designed to serve the protection of Russia’s economic interests. There has been little change since Vladimir Putin returned to the Presidency, although a new, still rather general Arctic development plan was released in February 2013.⁷⁹ Following up on former President Gorbachev’s 1987 Murmansk Speech, Russian strategy calls for the region to be maintained as a zone of peace and cooperation. In contrast to Russia’s 2007 flag-planting demonstration and other occasional more provocative statements, the Arctic strategy paper is a well-balanced policy statement emphasizing cooperation, not confrontation. The importance of mutually advantageous bilateral and multilateral cooperation is outlined and the Barents Regional Council (BRC) and the Barents Euro-Arctic Council (BEAC) are mentioned in this connection.

When Russia assumed the chair of the AC in 2004, it announced as a major priority during its chairmanship the realization of the Arctic Council’s Sustainable Development Action Plan (SDAP). Moscow expected that the SDAP would help coordinate the work of all Arctic Council structures and help to build up capacities in the three core areas for sustainable development - economic, social and environmental.⁸⁰ After the re-election of President Vladimir Putin in 2012 the interplay of petro-economic interests and the struggle for political-military superior-

⁷⁶ U.S. Navy Arctic Roadmap, 2009, www.navy.mil/navydata/documents/USN_arctic_roadmap.pdf; U.S. Department of Defense, Report to Congress on Arctic Operations and the Northwest Passage. Washington, D.C. May 2011, www.defense.gov/pubs/pdfs/Tab_A_Arctic_Report_Public.pdf.

⁷⁷ The Foundations of the Russian Federation Policy in the Arctic Until 2020 and Beyond, 18 Sept. 2008, www.securityaffairs.org/issues/2010/18/russia%27s_new_arctic_strategy.pdf; See also Katarzyna Zysk, “Russia’s Arctic Strategy”, Joint Forces Quarterly, vol. 57, 2nd Quarter 2010, pp. 103-110, www.ndu.edu/press/lib/images/jfq-57/zysk.pdf.

⁷⁸ Valery Konyshov and Alekandr Sergunin, “The Arctic at the Crossroads of Geopolitical Interests.” Russian Politics and Law, vol. 50, no. 2, March-April 2012, pp. 34-54.

⁷⁹ “Russia launches program on Arctic development to 2020”, Barents Observer, February 2013, <http://barentsobserver.com/en/arctic/2013/02/russia-launches-pro...>

⁸⁰ Program of the Russian Federation Chairmanship of the Arctic Council in 2004-2006, www.rusembassy.fi/ERArctCouncil.htm.

ity made for some ambivalence in Russia's Arctic policy. The increase of military activities in the North cannot be ignored. Putin's "pet project", however, is to gain control over the underwater Lomonosov and Mendeleev ridges in the Arctic Ocean.⁸¹ As these ridges are also linked to the North American landmass, Russia can only succeed with the consent or acceptance of its neighbours in the High North. This, along with domestic and financial constraints, should put a brake on any military sabre-rattling. Moscow has further underlined its resolve to accept UNCLOS as binding law and thus is expected by most observers to accept whatever adjudication the CLCS eventually comes up with.

The two remaining Arctic States occupy distinct positions that are reflected in their strategies. Iceland, except for a small island off its north coast, is situated south of the Polar Circle but regards itself as "a coastal State within the Arctic region as regards influencing its development as well as international decisions on regional issues ... this will among other things be based on the fact that since the Northern part of the Icelandic Exclusive Economic Zone falls within the Arctic and extends to the Greenland Sea adjoining the Arctic Ocean, Iceland has both territory and rights to the sea areas north of the Arctic Circle."⁸² In some of the broader (climatic or societal) definitions of the Arctic, Iceland's whole territory is included. Politically and economically it faces many of the same challenges as the Arctic coastal states; but because of its small size it is less self-supporting than they are. Its strategy document understandably puts almost as much emphasis on ensuring that Iceland is accorded its proper status, and has its voice heard, as on substantive aims. Finland, squeezed in between its two Nordic neighbours to the West and Russia to the East, lost its access to the Arctic Ocean (the Petsamo/Petchenga area) as a result of World War II. For historical and geographical reasons the Finnish Government still follows a balanced approach between containment and cooperation with Russia; its Arctic policy puts considerable emphasis on finding niches to share in any economic benefits, and on developing a role for the EU.⁸³

This short overview of Northern countries' Arctic strategies shows how closely national and multilateral approaches are intertwined. As to interaction between the two, in most cases national strategies shape states' attitudes to multilateral institutions and not, or not yet, the other way around. In their national strategies the Arctic countries seek to safeguard their sovereignty and security in the region and to create conditions in which the resources of the Arctic can be reaped for the use of their economies. Not all countries prefer to use the Arctic Council as their primary instrument for coping with their policy problems. The U.S. and Russia have a strong preference for national strategies, while the Nordic countries prefer to use multilateral approaches.

Have the common interests they share in Arctic security and regional stability, as well as similar economic and ecological agendas, drawn the Arctic states closer together and led to a common vision of the future⁸⁴, or have new conflicts been triggered between them? Currently

⁸¹ In a 2001 submission to the CLCS, Russia requested the recognition of large areas in the Arctic Ocean, extending to the North Pole, the Lomonosov and the Mendeleev Ridges, as extensions of the Russian coastal shelf. This demand was turned down by the CLCS; it requested further documentation to prove Moscow's claims.

⁸² Althingi (Parliament of Iceland), A Parliamentary Resolution on Iceland's Arctic Policy, approved March 28, 2011, www.mfa.is/.../A-Parliamentary-Resolution-on-ICE-.

⁸³ Russia Action Plan. Government Resolution, Government of Finland, 16 April 2009; <http://formin.finland.fi/public/download.aspx?ID=42535&GUID=%7B448538DA-BD92-4814-9B57-3590FB386721%7D>; see also Finland's Strategy for the Arctic Region, Prime Minister's Office Publication, 6/2010, formin.finland.fi/public/download.aspx?ID=63216&GUID...

⁸⁴ The Kiruna Ministerial in May 2013 approved a fairly general common Vision for the Arctic. See Kiruna Vision for the Arctic, Kiruna, Sweden, 15 May 2013. <http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting>

in military terms the Arctic is a peaceful region, though one should not rule out the possibility of future conflicts, e.g. over status and control of currently unassigned areas. Most Northern countries have realized that the Arctic is an integrated geographical, biological and ecological space demanding wholesome and sustainable solutions that can only be achieved through co-operation with the other countries. Today, it looks as if the Arctic Countries are more aware than ever before – though to different degrees – that they can neither protect their security and sovereignty, nor achieve lasting political stability in the region, by their own individual efforts. This perception draws them together but also makes them wary of allowing other, more diverse states into the picture: thus they have so far shied away from introducing Arctic issues into a broader international setting such as the United Nations, and have not turned to the UN Security Council for help in resolving regional disputes.⁸⁵ However, even if the Arctic has seen lowered levels of tension and no actual military confrontation since the Cold War's end, diverging interests and incompatible national priorities still exist among Arctic states and might in future lead to political conflicts.

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Denmark and Canada tried to avoid international involvement in the case of Hans Island. This small and rocky island has been the site of a tug-of-war with all elements of comedy. While Canada and Denmark feel that it is not worth a show of force, they are not yet ready to accept a negative legal settlement. Their joint S&R exercise in the spring of 2012 on Hans Island indicates that both countries are looking for a pragmatic solution.

POLITICAL DISPUTES AMONG ARCTIC STATES

Remembering the Arctic governance puzzle, we need to discuss whether existing organizational structures – and especially the Arctic Council – have the capability to solve the region’s divergences and provide for the political stability on which the well-being of Arctic countries and their populations depends. The most obvious conflicts concern sea borders; except for Hans Island in the Nares Strait there are no territorial disputes on land. A hopeful sign is that – as already noted – the long-term dispute between Norway and Russia on their sea border in the Barents Sea in 2010 has been settled after 40 years of negotiations with a treaty now ratified by both the Russian Duma and the Norwegian Storting.⁸⁶ In 1990 the U.S. and the Soviet Union also reached an agreement on their Bering Sea border,⁸⁷ settling on a compromise between a median and a sector line, but Russia still refuses to submit it to the Duma for ratification, arguing that it is no longer bound by an agreement signed by former Soviet Foreign Minister Edward Shevardnadze. Moscow maintains that Russia’s boundaries were in principle determined by a decree of 15 April 1926 in which the Soviet Union claimed all lands and islands in an Arctic Ocean sector between 32° 34’ and 168° 4’ West.⁸⁸ Nevertheless, the agreement appears to be provisionally respected. Still, as long as there are no new hydrocarbon finds in the Bering region, the issue is not on Washington’s or Moscow’s political screens.

In the Beaufort Sea Canada and the U.S. disagree over the extension of the maritime border between Alaska and Yukon through the EEZs; at the core of the divergence are the rights to a triangular-shaped area of about 6,250 nm². Canada takes the position that this maritime boundary was settled in an 1825 Convention between Great Britain and Tsarist Russia, which defined the border line between Alaska and Yukon as following the 141° W meridian “as far as the frozen ocean”.⁸⁹ The U.S., however, argues that no maritime border has yet been legally defined; and if it were to be set, it should follow the median line between the two coastlines – which would give the U.S. a large area with potentially rich natural resources at Canada’s expense. Because of the close and friendly relations between the two countries, Ottawa and Washington will eventually find a compromise solution. Since 2010 Canadian and US scientists have jointly mapped the sea floor, and their governments are considering agreeing on the terms of a submission to the Commission on the Limits of Continental Shelf (CLCS) under

⁸⁶ Treaty between the Kingdom of Norway and the Russian Federation concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean, Murmansk, 15 September 2010, www.regjeringen.no/upload/SMK/Vedlegg/2010/avtale_engelsk.pdf.

⁸⁷ Agreement between the United States of America and the Union of Soviet Socialist Republics on the maritime boundary, 1 June 1990, in [United Nations, Delimitation Treaties InfoBase](#), DOALOS/OLA (=National legislation of coastal States, as made available throughout the years to the United Nations).

⁸⁸ T. A. Taracouzio, [Soviets in the Arctic](#), New York, 1938, p. 381, www.da.mod.uk/.../library/russian.../20111017-SJM-Arctic-paper.pdf.

⁸⁹ Convention between Great Britain and Russia (Petersburg Treaty, 16 February 1825), <http://explorenorth.com/library/history/bl-ruseng1825.htm>. In 1867, Russia sold Alaska to the United States.

UNCLOS regulations – though to be a party to such a submission, the U.S. would have to accede to the UN Convention first.

Much more acute are two other disagreements. One concerns the Spitsbergen Archipelago and the interpretation of the 1920 Svalbard Treaty. This agreement prohibits any use of the island for warlike purposes and guarantees to all interested parties an equal treatment of their nationals and ships in regard to fishing, hunting, and other commercial activities on land and in the territorial waters (4 nm in 1920, currently 12 nm). It is controversial whether Svalbard sits on the Norwegian coastal shelf – as Norway claims – or has a shelf of its own. According to its interpretation, Oslo denies that the treaty's privileges apply to the areas beyond the territorial waters of Svalbard over which Norway claims full jurisdiction.⁹⁰ This view is contested by Russia, Great Britain, Iceland and a number of other states signatories to the Svalbard Treaty, who demand access to the archipelago's living and material resources. Thus far, Norway has established a fisheries protection zone in the disputed area but not yet claimed an EEZ. The fisheries zone is *de facto* mostly respected by Russia, which, however, continues to challenge Norway's legal position. This conflict could become more acute if in a time of rising energy prices new deposits of oil and gas or other valuable minerals were discovered in the area.

An even greater potential for serious conflict lies in Russia's claim to the Lomonosov Ridge as part of its extended coastal shelf. The Russian Federation was relatively early in ratifying UNCLOS in 1997, but when doing so, it added a stipulation that it did not accept any procedures entailing binding decisions on boundary delimitations disputes, on military activities and on law enforcement, which would remain at the discretion of the Russian government even after ratifying the Convention. In 2001 the Russian government submitted to the CLCS a request for recognizing an extension of its coastal shelf into an area of about 800 nm² that included both the Lomonosov ridge and the North Pole. Because the commission asked for further morphological proof, Russia has since launched a number of submarine missions for further data collection. In September 2012 Russia embarked on a deep-sea mission down to 3,000 meters at the Mendeleev ridge with its top-secret titanium nuclear submarine "Losharik" to collect materials for proving its claim to the Arctic Ocean Ridges.⁹¹ So far Moscow has not submitted a revision to its original 2002 proposal to the CLCS, and Ottawa and Copenhagen, because their deadlines for doing so are 2013 and 2014, still have time in hand before applying to the CLCS for an extension of their coastal shelves. Both Canada and Denmark are closely cooperating and carrying out a joint programme to map the sea floor. Based on available evidence, it is possible that the CLCS will view this mid-ocean ridge as the common shelf of Russia, Canada and Danish Greenland and call on the three countries to negotiate an equitable solution, as it has no mandate to adjudicate itself in the case of disputed maritime boundaries. As Moscow's 2007 dramatic flag-planting "Arktika" expedition to the North Pole indicates, however, its claim to the Lomonosov Ridge and the North Pole may be treated as matters of Russian national prestige and a negative outcome could aggravate tensions among the Arctic Ocean coastal states. Thus far, however, Russia has followed the procedures of the

⁹⁰ Minister of Foreign Affairs, "Svalbard and the Surrounding Maritime Areas – Background and legal issues." <http://www.regjeringen.no/en/dep/ud/selected-topics/civil--rights/spesiell-folkerett/folkerettslige-sporsmal-i-tilknytning-ti.html?id=537481>.

⁹¹ This was Russia's first known mission at a depth down to 3,000 meters at the Mendeleev ridge with its top secret nuclear "Losharik" submarine; see Thomas Nilsen, *Barents Observer*, 29 October 2012, <http://barentsobserver.com/en/security/top-secret-nuclear-sub-used-prove-north-pole-claim-29-10>.

UNCLOS convention for the formal presentation of its claim and presumably sees this as being in its best national interests.

More generally, many observers fear that Moscow's underpinning of its great power ambitions with resumed jet fighter flights along the Norwegian coast and around Northeastern Canada – at a time when both sides' nuclear submarines still patrol the area and US missile defence plans are causing tension – could contribute to a new arms race in the Arctic. These Russian activities have raised concerns in neighbour countries and stimulated a corresponding review of military plans and activities in Norway and Canada. Iceland has also been concerned but lacks the means to make military preparations. Canadian Prime Minister Stephen Harper has announced plans to develop the country's military presence in the Arctic as an instrument of reasserting Canadian sovereignty in the High North; an announcement that should be interpreted as also intended for domestic purposes.⁹² Norway for its part has enhanced the presence of its armed forces in northern Norway and intensified maritime surveillance. It has moved its National Headquarters from Jåttå near Stavanger to Reitan outside of Bodø. Oslo is also investing in the construction of new ice-strengthened frigates and offshore patrol vessels.⁹³

In 2009 the Danish Folketing approved a new defence programme for the period 2010-2014 which stakes out guidelines for Denmark's security in the Arctic and its plans to increase its military activities.⁹⁴ A joint Arctic command comprising both the Faroe Islands and Greenland has been formed and a mobile Arctic intervention force is being discussed. To strengthen aerial and maritime policing, the Danish Navy and Air Force will get new capabilities including Arctic-capable helicopters and ice-resistant patrol boats. In general, however, Denmark and Norway wish to avoid any militarization of the Arctic and seek to balance defence awareness with increased cooperation with Russia on various levels.

Another international issue for which a solution has yet to be found is the right of passage through the Arctic straits. According to UNCLOS each state has the right of innocent passage through international straits as defined in Articles 17-26. The problem is how to define an international strait in concrete terms. Canada and Russia have drawn straight borderlines around their territorial waters in a way that includes all major islands; they consider Arctic passages, such as the Northwest Passage (NWP) and the Northern Sea Route (or Northern Seaway, NSW) as internal waterways and require previous authorization for the passage of other nations' ships through these waters. But most other countries insist that these straits are international waters. In view of the closeness of Canada-U.S. relations, Ottawa has agreed to presume that permission for passage has been given to US research icebreakers – without prejudice to its different legal interpretation. But this 'agreement to disagree' does not extend to other kinds of vessels or those of other nations. With the melting of Arctic sea ice and the opening-up of the seaways, Canada's position will certainly be challenged by other nations as well. On geographical grounds Russia's drawing of straight borderlines around its large Siberian peninsulas is also debatable. In practice it is respected by most shipping nations, but skipper complain about bureaucratic and time-consuming authorization procedures, high fees

⁹² PM Harper on Arctic: "Use it or lose it", 10 July 2007, *Times Colonist* (Victoria), www.canada.com/topics/news/story.html?id=7ca93d97-3b26-4dd1-8d92-8568f9b7cc2a..

⁹³ Øynstein Bø, "Security in the High North – Perceptions and misperceptions." Bergen, 8 October 2009, www.norway-nato.org/en/news/Security-in-the-High-North--Perceptions-and-misperceptions.

⁹⁴ *Arktis i en brydningstid. Forslag til strategi for aktiviteter i det arktiske område* (The Arctic in Times of Transition), Udenriksministeriet & Grønlands Hjemmestyre, May 2008. English Version of the defence proposal submitted to the Storting in June 2009: *Danish Defence Agreement, 2010-2014*, merln.ndu.edu/whitepapers/Denmark2010-2014English.pdf.

and the mandatory icebreaker escort for each individual vessel.⁹⁵ Neither Canada nor Russia distinguishes between traffic to local destinations and transit traffic. Arctic navigation would be much facilitated if an international agreement was reached that respected Arctic Ocean states' legal positions but provided practical rules for innocent passage.

⁹⁵ In September 2011 the Russian Duma approved a new law for the passage through the Northern Sea Route in which detailed rules for navigation were developed, see Russia's National Seaway, The Northern Sea Route, The Voice of Russia, 24 August 2012, http://english.ruvr.ru/2012_08_24/Russia-s-National-Seaway-The-Northern-Sea-Route/. The one-ship-one-icebreaker rule has now been relaxed.

COPING WITH THE IMPACT OF CLIMATE CHANGE

With increased shipping and the exploitation of hydrocarbon deposits in Arctic waters a major risk is posed by large oil spills.⁹⁶ Already in 1970 the Canadian government adopted an Arctic Waters Pollution Prevention Act (AWPPA) and imposed strict environmental and safety standards for all ships travelling within 100 nm along Canada's Arctic shores. Reacting to the grounding of the Exxon Valdez tanker in Alaska in March 1989 and the resulting oil spill in Prince William Sound, the International Maritime Organization adopted an International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC)⁹⁷. This convention complements other documents covering the prevention of pollution of the marine environment by ships from operational or accidental causes.⁹⁸ During the negotiations on UNCLOS, Canada introduced a special clause (Article 234) that permits coastal states to develop and enforce specific regulations for shipping in ice-covered waters within their EEZ. When restricting passage through the NWP, Ottawa legitimizes its stance with this clause. To protect the fragile Arctic marine ecosystem, the AC states are also working on a Polar Code but so far have failed to make it mandatory for all Arctic shipping.⁹⁹ The AC's recent progress towards a code on oil spill response and a related task force has been mentioned above.¹⁰⁰

Security and stability in the Arctic region are less endangered by military conflicts than by divergences about how best to keep the human and biological habitat liveable. Arctic climate change has a considerable impact on humans and Arctic marine or terrestrial species. On land, higher temperatures lead to thawing permafrost, making roads impassable, cracking pipelines and railroad tracks, and causing buildings and infrastructures to collapse. With melting sea ice, the coastal areas lose their protective sea ice cover and become vulnerable to Arctic storms; coastlines change and move inward, making harbours and moorings unworkable. The region's inhabitants are being driven to build new logistic and communications systems at a speed that greatly overstretches their governments' abilities. At the Climate Change Conferences in Rio,

⁹⁶ Though new hydrocarbon exploitations (e.g. of tar sands) are underway on land as well as at sea, major pollution events – including oil spills – have so far been mostly left as a national responsibility.

⁹⁷ International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), adopted November 1990, entry into force May 1995, <http://www.imo.org/About/Conventions/ListOfConventions/Pages/International-Convention-on-Oil-Pollution-Preparedness,-Response-and-Co-operation-%28OPRC%29.aspx>

⁹⁸ Arctic Waters Pollution Prevention Act (AWPPA), 1985, <http://laws-lois.justice.gc.ca/eng/acts/A-12/>; International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990, www.imo.org/About/conventions/listofconventions/pages/international-convention-on-oil-pollution-preparedness,-response-and-co-operation-%28oprc%29.aspx; International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, <http://www.imo.org/About/Conventions/ListOfConventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-%28MARPOL%29.aspx>

⁹⁹ IMO, "Protecting the Polar Regions from shipping, protecting ships in Polar waters", www.imo.org/Media-Centre/Hot_Topics/polar/Documents/polarcodePPT2011.pdf.

¹⁰⁰ Arctic Council Task Force on Arctic Marine Pollution Preparedness and Response, www.arctic-council.org/index.php/en/about-us/task-forces/280-oil-spill-task-force; Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, May 2013, Annex to Kiruna SAO Report. <http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting>

Kyoto, Copenhagen and Cancun, the Nordic countries have pressed especially hard for more credible steps to reduce CO² emissions and to slow down climate change – though with meager results, not least as the larger Arctic states have been among the more retrograde climate performers themselves.

Arctic warming is driving fish and other marine species northward in search of cooler waters. While diminishing sea ice will give the commercial fishing industries new opportunities, indigenous fishermen risk losing their familiar catch and customary fishing grounds. Unregulated commercial fishing has potentially devastating consequences for Arctic marine life and for the indigenous peoples who live from the sea. The climate-driven changes in the Arctic Ocean have created a need to review the existing treaties such as the 1995 UN Fish Stocks Agreement (UNFSA) and the contracts on the protection of endangered fish species. At the IPY conference in Montreal, it was proposed to introduce a moratorium on commercial high sea fishing in the Arctic until comprehensive international fisheries agreements and new integrated management plans have been agreed upon.¹⁰¹ The aim is to protect the fragile polar ecosystem from unregulated fishing in the high seas of the Arctic. Other existing agreements on Arctic species also need to be reviewed and adapted to the new climate situation.

Sea mammals are also changing their roaming patterns, and the habitat of polar bears is critically endangered when the Arctic sea ice melts. The large herds of North American caribou, Nunavut and Greenlandic musk-ox, and North European reindeer are also put in serious danger by the extension of commercial land use and industrial pollution from within and from outside the region.

Safeguarding of the environment has by now forced itself upon the attention of all Arctic states – now even in Putin's Russia.¹⁰² While sharing the basic logic of protecting their delicate habitat, however, these governments have chosen to invest in widely varying methods, including monitoring, conservation, education, and international efforts to achieve a global accord on reducing CO² emissions. This adds further importance to the joint expertise developed by the AC's working groups and task forces, which the member states can translate into non-binding resolutions, recommendations and or – so far rarely – into a treaty such as the Oil Spill Agreement. With its scientific expertise the AC also assists its member countries in coping with the challenges that climate change has in store for them.

In reviewing political and environmental conflict scenarios in the Arctic and their solutions, the superiority of multilateral approaches is striking. Without UNCLOS and the commitment of both Norway and Russia to its adherence, the dispute about their common Barents Sea border might have smouldered on for another 40 years – or might have erupted into a violent conflict. For finding solutions for the problems that climate change brings to the human and zootic Arctic habitat, multilateral conventions also hold the best promise of amelioration even if it takes a long time to find equitable solutions and to negotiate treaties. In spite of differing political and economic interests, the Arctic states should thus be encouraged to continue working jointly on ameliorating the consequences of climate change. In the process they must face the challenge of striking a balance between Arctic peoples' demand for sustainable management of their habitat and non-Arctic states' eagerness to exploit the natural resources of the High North commercially.

¹⁰¹ "Scientists urge Canada to postpone commercial fishing in the Arctic." *The Globe and Mail*, 22 April 2012, www.theglobeandmail.com/news/politics/scientists-urge-canada-to-postpone-commercial-fishing-in-the-arctic/article4101724/. A new circumpolar agreement would complement the North East Atlantic Fisheries Commission (NEAF).

¹⁰² "Putin tells Governors to Prioritize Environment", 10 April 2012, *RIANOVSTI*, <http://en.rian.ru/Environment/20120410/172729746.html> .

THE FUTURE OF ARCTIC GOVERNANCE

How should the Arctic nations proceed on the meandering path of strengthening Arctic governance? The Arctic Council's limitations are both structural and voluntary. Arctic states follow different interests, depending on how central the region is for their national identity and how much they expect to gain from an active multilateral Arctic policy. But even where Arctic issues are central – as for Norway, Denmark/Greenland and Canada, and for Russia in a strategic sense – economic or security concerns tend to dominate. While Norway lives from the oil that is extracted from the North Sea and the Barents Sea shelf, for Canada issues of sovereignty and security are paramount.

All Arctic states have a strong interest in regional stability – though to different degrees – and are discussing ways and means to strengthen it. Political stability is a precondition for realizing their core interests, whether these are reaping the economic benefits from natural resources, upgrading their little developed Northern regions, or protecting both their land and their national sovereignty. Every individual state in its strategy pays tribute to the role the AC can play in serving these ends, and the majority of AC members are open to a moderate and steady expansion of its work. At the same time, all radical proposals to upgrade the AC and transform it into an organization with strong and effective institutions have been met with opposition from one quarter or another. The U.S. for example has (thus far) been wary of encroachments on its political room for manoeuvre, while a larger number of states would endorse the original US concern to keep “hard” security out of the Council.¹⁰³ All Arctic nations have also rejected a comprehensive treaty on the circumpolar region: a favourite project of many outside observers (including initially the European Parliament) but one that the locals found impractical to realize and challenging to their national interests.¹⁰⁴ This raises the question where the red line lies between strengthening the AC and keeping it from turning into a full-scale organization.

For a variety of reasons the Arctic Council today has become the most relevant institution in the North Polar region. Besides the Arctic states (including Russia), it brings together representatives of the indigenous peoples and a number of interested non-Arctic states and organizations as observers. But the AC remains mainly a decision-preparing rather than a decision-taking institution, despite all the steps for reform that have been discussed, and some that have recently

¹⁰³ The argument is both that there are other ways of dealing with this (e.g. NATO-Russia relations), and that raising such difficult issues would poison the atmosphere for constructive AC work. So far the veto on security discussions has not prevented civil security cooperation notably on S&R, nor dialogue among AC nations' military forces that need to cooperate for that purpose.

¹⁰⁴ The Ilulissat Declaration, May 2008, www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf.

been taken.¹⁰⁵ These include the signing of the S&R Agreement which has stimulated the hope that the AC could become a platform for negotiating further legally-binding agreements.

In which ways should the Arctic Council be further strengthened: by creating new institutional structures, by broadening its agenda, or by inviting additional interested countries and organizations to join as observers? The measures recommended by the SAOs and approved by the Ministers at their 2011 Nuuk meeting – such as the establishment of a permanent AC secretariat at Tromsø, the approval of a joint communication strategy and the agreement on criteria for the role and admission of observers – are important steps for strengthening the AC. They have enhanced Arctic governance structures without circumscribing members' sovereignty. The secretariat will be funded with a common budget of up to one million US \$ to which each member and observer state contributes. The hope is that it will enable the Arctic states to improve information exchange and build a data bank for storing the results of the AC's scientific programmes. The incoming Canadian chair has been instructed to prioritize the search for more secure funding of AC activities.¹⁰⁶

When Sweden took over the AC chair, Foreign Minister Carl Bildt outlined several key areas for further work of the Arctic Council.¹⁰⁷ First, the AC must not only analyze challenges but also do something about them. There have been some tentative initiatives for implementing this commitment. Secondly, the AC must improve communication, e.g. telling the public of the important work going on in the Council and its WGs. Further, the Arctic voice should be heard in the world. With the adoption of an AC Communication Strategy in May 2012 the AC has created an adequate instrument, though in due time its efficiency should be carefully reviewed. Bildt's third focus is the human dimension: in order to be legitimate, the AC must achieve sustainable development for the people living in the region.¹⁰⁸ There is still a long way to go in this, especially concerning the indigenous peoples' livelihood. As noted, the Swedish chairmanship made decisive progress towards an oil spill response agreement and it has further advocated making the "Polar Code" mandatory for navigation in Polar waters – which should be somewhat easier because of the large degree of consensus already achieved. On the agenda are also ecosystem-based regional joint management systems.¹⁰⁹

For navigation in the Arctic passages some experts have proposed a multilateral straits management authority (comparable to that on the St. Lawrence Waterway)¹¹⁰, though this suggestion had been met with opposition from the Canadian Government. A step in this direction could, however, be a more limited set of practical rules. The enhancement of other existing regulatory frameworks could help to meet future challenges such as the exploitation of new oil and gas fields in Arctic waters and their impact on the environment, the growth of mining

¹⁰⁵ Senior Arctic Officials (SAO) Report to Ministers, Nuuk, Greenland, May 2011, p.75, SAO_Report_to_Ministers_-_Nuuk_Ministerial_Meeting_May_2011.pdf.

¹⁰⁶ Nuuk Declaration, Arctic Council Nuuk_Ministerial_Meeting, May 2011, www.arctic-council.org/index.../5-declarations?...nuuk-declaration.

¹⁰⁷ "Arctic challenges and the future perspectives of Arctic cooperation." Speech by Carl Bildt, Minister of Foreign Affairs, at Carlton University, 17 May 2012, www.government.se/sb/d/15783/a/193302.

¹⁰⁸ The Kiruna Ministerial in May 2013 has also adopted an [Arctic Resilience Interim Report 2013](http://www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting). www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting.

¹⁰⁹ A further success of the Swedish chairmanship was the adoption of a common 'vision' statement on the Arctic which at first sight appears to unite all AC participants behind similar principles to those of the Arctic Five's Ilulissat declaration – see Kiruna Vision for the Arctic, Kiruna, Sweden, 15 May 2013, www.arctic-council.org/index.php/en/document-archive/category/425-main-documents-from-kiruna-ministerial-meeting. See note 38 above.

¹¹⁰ Franklyn Griffiths, "Toward a Canadian Arctic Strategy. [Foreign Policy for Canada's Tomorrow](http://www.opencanada.org/features/reports/foreign-policy-for-canadas-tomorrow)", no. 1, Canadian International Council, p. 20, <http://opencanada.org/features/reports/foreign-policy-for-canadas-tomorrow/>.

activities on land, the anticipated rise of destination traffic along the Arctic coasts as well as other commercial shipping, the increases in Arctic tourism, and the ongoing releases of contaminants in the Arctic or with an impact on it. Several times it has been suggested that the AC should set up binding policy guidelines on sustainable Arctic gas and oil extraction that are linked to ecological standards. An agreement on response to oil spills at sea is now in the pipeline and awaiting adoption at the Kiruna Ministerial meeting in May 2013.¹¹¹ It is absolutely crucial to protect the delicate Arctic environment against the negative effects of human activities, resource extraction and greater navigation.

Arctic States value science as a “currency of influence”.¹¹² Thus the University of the Arctic (UA) should grow into a system of linking Arctic scientific research centres across the region. But there are further fields where international collaboration could be helpful. The Arctic Science Committee provides another international scientific hub. At the political level, it has been proposed that AC members should endorse a common vision on the future of the Arctic that would facilitate future agreements. A joint perspective on the Polar region and its problems could also take the form of an Agreement on Basic Principles, a device that in the past has been used to bridge the East-West divide for joint action on arms control arrangements.¹¹³

In 1987, Mikhail Gorbachev in his Murmansk speech called for peace and improved cooperation in the Arctic. Among his proposals was the establishment of a nuclear weapons-free zone in Northern Europe.¹¹⁴ Following up on earlier plans, in 2011 a draft law on establishing nuclear weapon-free zones in the North was introduced into the Icelandic Parliament, calling on the government to make Iceland a nuclear-free territory as a step toward a larger Arctic NNWZ and a world free of nuclear weapons.¹¹⁵ This resolution faltered due to resistance on the part of the Ministry of Foreign Affairs. If it had been adopted the bill would have banned all presence and transit of nuclear weapons or other nuclear materials in Iceland on land, in the air and on sea including the waters of its Exclusive Economic Zone. Instead of such a sweeping proposal, regional confidence building measures (CBMs) might be more conducive to Arctic stability. Programmes for increased transparency of military actions and timely information on military manoeuvres will have better chances for implementation than a sweeping proposal on an ambitious nuclear weapon-free zone. During the Cold War era, CBMs have helped to reduce conflict arising from misapprehension.

How could the indigenous peoples be better integrated in the Council’s institutions and activities, especially when states in the AC negotiate treaties and other binding agreements? A proposal discussed to save on costs and to increase indigenous involvement has been to integrate the Indigenous Peoples’ Secretariat (IPS), currently located at Copenhagen,¹¹⁶ into

111 Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, www.greenpeace.org/canada/oilspillagmt/.

112 Jennifer Rhemann (2012), “Looking Within and Outside the Arctic to Increase the Governance Capacity of the Arctic Council.” *The Arctic Council: Its Place in The Future of Arctic Governance*, p. 42, gordonfoundation.ca/sites/default/files/publications/The%20Arctic%20Council_FULL_1.pdf.

113 A “vision” statement was in fact adopted at the Kiruna Ministerial meeting in May 2013 (note 86 above), but was arguably too general to provide concrete guidance for the AC’s future stand. More concrete might be an Agreement on Basic Principles.

114 Mikhail Gorbachev’s speech in Murmansk, 1 October 1987, www.barentsinfo.fi/docs/Gorbachev_speech.pdf.

115 Frumvarp til laga um friðlýsingu Íslands fyrir kjarnorkuvopnum og bann við umferð kjarnorkuknúinna farar-tækja (Draft law on a Nordic Nuclear Weapon-free Zone, NNWZ), 139. löggjafarþing 2010-2011, þskj. 18 – 18. m I, www.althingi.is/altxt/139/s/pdf/0018.pdf.

116 At the Kiruna Ministerial in May 2013 the IPS was decided to co-locate with the Arctic Council and move it to Tromsø.

the AC's secretariat. This suggestion was, however, rejected by the indigenous peoples out of concern about losing the IPS' autonomy. Overall, solutions on broadening the range of topics and reinforcing the AC's organizational structures might be easier to achieve than settling the issue of including or excluding additional participants.

It has often been asked what role the Arctic Council should take on in the emerging security environment of the Arctic. A core role could be to serve as a hub for a network of inter-/multinational agreements, institutions and organizations in the region that would coordinate a whole gamut of circumpolar activities with security relevance, such as the S&R and emergency response protocols already negotiated.¹¹⁷ But as we have seen, it will be quite difficult to convince members that the AC should also deal with hard security issues, even if many military issues are closely linked to economic and ecologic matters. Some Arctic states are also very reserved, commonly for domestic and other non-security reasons, about any new or overt NATO involvement in the region.¹¹⁸ Apprehension about including security in the Arctic agenda is often fed by a fear that this could – perhaps involuntarily – contribute to making military issues more important. If the AC wants to avoid further militarization of the Arctic, however, it should seek to adopt confidence-building measures and look at improved information exchange. The Council could devise arms control activities that enhance regional stability. Any such enlargement of the AC's agenda should, however, not replace its traditional responsibilities for protecting and improving the environmental situation, the economic and social conditions, and the culture, health and wellbeing of the indigenous peoples and communities in the Arctic. Overall, the evolution of the AC into an effective and sustainable governing institution will largely depend on members' initiatives and their resolve. With the AC's flexible set-up, the rules and the institutional framework for such a development are already present if only the will is there.

¹¹⁷ Piotr Graczyk (2012), "The Arctic Council Inclusive of Non-Arctic Perspectives. Seeking a new balance," p.281-5, *The Arctic Council: Its Place in The Future of Arctic Governance*, gordonfoundation.ca/sites/default/files/publications/The%20Arctic%20Council_FULL_1.pdf.

¹¹⁸ Helga Haftendorn (2011), "NATO and the Arctic: Is the Atlantic Alliance a cold war relic in a peaceful region now faced with non-military challenges?" *European Security*, vol. 20, no. 3 (September), pp. 337-362.

SOLVING THE ARCTIC PUZZLE

To make sure that the circumpolar region remains peaceful, that divergences are worked out in consultation and conflict is resolved within cooperative structures, the Arctic needs to further develop its system of governance. With the expected climate changes and the resulting human penetration of the once pristine areas, this necessity will likely grow in the future. When in the late 1980s the Arctic states saw the need for joint protection of their environment against the impact of climate change, they agreed on an Arctic Environmental Protection Strategy that was in turn enhanced by building the Arctic Council and, over time, strengthening its institutions. The flexibility of the AC system – especially after the role of the SAOs had been expanded and thereby strengthened – contributes to balancing and blending national concerns and interests with an effective output of the Council for the welfare of the region.

Today we see a much more politicized Arctic Council than when it was founded in 1996, though consensus decision-making remains the basis of Arctic collaboration. A more active role for the Arctic Council became possible after the Obama Administration saw the need for a more vigorous US role in the Arctic, and this in turn was welcomed by the Nordic nations. Canada, however, has at times been unwilling to keep pace – unless it was guaranteed a leadership position in the circumpolar region. Ottawa has also been the most strongly opposed to an explicit Arctic strategy and role for NATO, possibly out of concern about being pressured by alliance members on opening the NWP to other nations' vessels. The role of the indigenous peoples' representatives has also changed; over the years they have demanded and gained a stronger voice in AC debates except when binding agreements are negotiated.¹¹⁹ Other Arctic states made clear their view that Russia's outlawing of the RAIPON Council should be speedily revoked, and their pressure probably helped to convince Russia that it should let RAIPON resume its activities.¹²⁰

The slow but steady growth of governance structures in the Arctic Region is the result of processes in which initiatives to strengthen multilateral procedures are blended with – implicit and explicit – respect for Arctic states' national traditions and interests. To take account of some members' sensitivities, agreements such as the S&R Treaty were not concluded by the Arctic Council as an institution, but were signed by and limited to the individual AC member states.

The critical “movers” have been the countries – and their politicians – who successively chaired the Arctic Council and the SAOs. In the last six years when the three Nordic countries – Norway, Denmark and Sweden – held the chair, Arctic governance has really moved ahead. It looks as if synergies are created when like-minded countries at the helm cooperate closely. Each chair has been assisted by a wide array of available institutions and arrangements, which

¹¹⁹ Conversation with Eric Grant, Secretary of the IPS, December 2012.

¹²⁰ Barents Observer, 15 March 2013.

can variously provide a legal basis when needed, terms of reference, a means for increasing knowledge and channels of communication.

There is no single answer to our lead question of how international struggle in the Arctic can be prevented and the exploitation of the region's resources be managed by consensus. The Arctic Council since its existence has contributed significantly to a peaceful development. Its evolution has been marked by moving step by step from issue-specific reports and recommendations to regulatory arrangements. At best the Council will continue in this way if flexibility and pragmatism writ large – and not ideology and principles – remain the orders of the day in the modern Arctic. According to Oran Young, it is far better to have “a messy process that yields effective government with respect to some important issues [than have a] more comprehensive and orderly process that fails to achieve success across the board.”¹²¹

¹²¹ Oran Young (2012), “The Arctic in Play: Governance in a Time of Rapid Change,” International Journal of Marine and Coastal Law, vol. 24, pp. 423-442, cited in Heather Exner-Pirot (2012), “New Directions for Governance in the Arctic Region”. Arctic Yearbook, pp. 225-246 (232).

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